

Public Health Service, HHS

Pt. 57

be deemed to be references to section 319 of the Act.

[43 FR 5353, Feb. 7, 1978]

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

Subparts A–B [Reserved]

Subpart C—Health Professions Student Loans

Sec.

- 57.201 Applicability.
- 57.202 Definitions.
- 57.203 Application by school.
- 57.204 Payment of Federal capital contributions and reallocation of funds remitted to the Secretary.
- 57.205 Health professions student loan funds.
- 57.206 Eligibility and selection of health professions student loan applicants.
- 57.207 Maximum amount of health professions student loans.
- 57.208 Health professions student loan promissory note and disclosure requirements.
- 57.209 Payment of health professions student loans.
- 57.210 Repayment and collection of health professions student loans.
- 57.211 Cancellation of health professions student loans for disability or death.
- 57.212 [Reserved]
- 57.213 Continuation of provisions for cancellation of loans made prior to November 18, 1971.
- 57.213a Loan cancellation reimbursement.
- 57.214 Repayment of loans made after November 17, 1971, for failure to complete a program of study.
- 57.215 Records, reports, inspection, and audit.
- 57.216 What additional Department regulations apply to schools?
- 57.216a Performance standard.
- 57.217 Additional conditions.
- 57.218 Noncompliance.

Subpart D—Nursing Student Loans

- 57.301 Applicability.
- 57.302 Definitions.
- 57.303 Application by school.
- 57.304 Payment of Federal capital contributions and reallocation of funds remitted to the Secretary.
- 57.305 Nursing student loan funds.
- 57.306 Eligibility and selection of nursing student loan applicants.

- 57.307 Maximum amount of nursing student loans.
- 57.308 Nursing student loan promissory note.
- 57.309 Payment of nursing student loans.
- 57.310 Repayment and collection of nursing student loans.
- 57.311 Cancellation of nursing student loans for disability or death.
- 57.312 Repayment of loans for service in a shortage area.
- 57.313 Loan cancellation for full-time employment as a registered nurse.
- 57.313a Loan cancellation reimbursement.
- 57.314 Repayment of loans made after November 17, 1971, for failure to complete a program of study.
- 57.315 Records, reports, inspection, and audit.
- 57.316 What additional Department regulations apply to schools?
- 57.316a Performance standard.
- 57.317 Additional conditions.
- 57.318 Noncompliance.

Subpart E—Grants for Construction of Nurse Training Facilities

- 57.409 Good cause for other use of completed facility.

Subparts F–O [Reserved]

Subpart P—Loan Guarantees and Interest Subsidies to Assist in Construction of Teaching Facilities for Health Profession Personnel

- 57.1501 Applicability.
- 57.1502 Definitions.
- 57.1503 Eligibility.
- 57.1504 Application.
- 57.1505 Approval of applications.
- 57.1506 Priority.
- 57.1507 Limitations applicable to loan guarantee.
- 57.1508 Amount of interest subsidy payments; limitations.
- 57.1509 Forms of credit and security instruments.
- 57.1510 Security for loans.
- 57.1511 Opinion of legal counsel.
- 57.1512 Length and maturity of loans.
- 57.1513 Repayment.
- 57.1514 Loan guarantee and interest subsidy agreements.
- 57.1515 Loan closing.
- 57.1516 Right of recovery-subordination.
- 57.1517 Waiver of right of recovery.
- 57.1518 Modification of loans.

Subparts Q–T [Reserved]

Subpart U—Armed Forces Health Professions Scholarship Program

- 57.2001 Applicability.

§ 57.201

42 CFR Ch. I (10–1–06 Edition)

- 57.2002 Definitions.
57.2003 Determinations of increased enrollment solely for the program.

Subpart V [Reserved]

Subpart W—Physician Shortage Area Scholarship Grants

- 57.2201 Applicability.
57.2202 Definitions.
57.2203 Eligibility.
57.2204 Application.
57.2205 Priority for selection of scholarship recipients.
57.2206 Grant award.
57.2207 Amount of scholarship grant.
57.2208 Payment of scholarship grant.
57.2209 Conditions of scholarship grant.
57.2210 Failure to comply.
57.2211 Waiver or suspension.

Subparts X–FF [Reserved]

Subpart GG—Payment for Tuition and Other Educational Costs

- 57.3201 To which programs do these regulations apply?
57.3202 How will allowable increases be determined?

Subparts HH–PP [Reserved]

Subparts A–B [Reserved]

Subpart C—Health Professions Student Loans

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 740–747 of the Public Health Service Act, 77 Stat. 170–173, as amended by 90 Stat. 2266–2268, 91 Stat. 390–391, 95 Stat. 920, 99 Stat. 532–536, and 102 Stat. 3125 (42 U.S.C. 294m–q); renumbered as secs. 721–735, as amended by Pub. L. 102–408, 106 Stat. 2011–2022 (42 U.S.C. 292q–292y).

SOURCE: 44 FR 29055, May 18, 1979, unless otherwise noted.

§ 57.201 Applicability.

The regulations of this subpart apply to the federal capital contributions made by the Secretary to public or other nonprofit health professions schools for the establishment of health professions student loan funds and to loans made to students by schools from these funds.

§ 57.202 Definitions.

As used in this subpart:

Act means the Public Health Service Act, as amended.

Date upon which a student ceases to be a full-time student means the first day of the month which is nearest to the date upon which an individual ceases to be a full-time student as defined in this section.

Default means the failure of a borrower of a loan made under this subpart to make an installment payment when due, or comply with any other term of the promissory note for such loan, except that a loan made under this subpart shall not be considered to be in default if the loan is discharged in bankruptcy, the borrower's repayment schedule has been renegotiated and the borrower is complying with the renegotiated schedule, or the loan is in forbearance.

Federal capital loan means a loan made by the Secretary to a school under section 744(a) of the Act, as in effect prior to October 1, 1977, the proceeds of which are to be returned to the Secretary.

Full-time student means a student who is enrolled in a health professions school and pursuing a course of study which is a full-time academic workload, as determined by the school, leading to a degree specified in section 722(b) of the Act.

Grace period means the period of 1 year beginning on the date upon which a student ceases to be a full-time student at a school of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, or veterinary medicine.

Health professions school or school, for purposes of this subpart, means a public or private nonprofit school of medicine, school of dentistry, school of osteopathic medicine, school of pharmacy, school of podiatric medicine, school of optometry, or school of veterinary medicine as defined in section 799(1)(A) of the Act.

Health professions student loan means the amount of money advanced to a student by a school from a health professions student loan fund under a properly executed promissory note.

Institutional capital contribution means the money provided by a school, in an amount not less than one-ninth of the federal capital contribution, and

deposited in a health professions student loan fund.

National of the United States means:

(1) A citizen of the United States, or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States, as defined in the Immigration and Nationality Act, at 8 U.S.C. section 1101(a)(22).

School year means the traditional approximately 9-month September to June annual session. For the purpose of computing school year equivalents for students who, during a 12-month period, attend for a longer period than the traditional school year, the school year will be considered to be 9 months in length.

Secretary means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

[44 FR 29055, May 18, 1979, as amended at 52 FR 20987, June 3, 1987; 53 FR 46549, Nov. 17, 1988; 56 FR 19293, Apr. 26, 1991; 56 FR 25446, June 4, 1991; 61 FR 6123, Feb. 16, 1996]

§ 57.203 Application by school.

(a) Each school seeking a Federal capital contribution must submit an application at the time and in the form and manner that the Secretary may require. The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the statute, the regulations of this subpart, and the terms and conditions of the award.

(b) Each application will be reviewed to determine eligibility and the reasonableness of the amount of Federal support requested. The Secretary may require the applicant to submit additional data for this purpose.

(c) An application will not be approved unless an agreement between

the Secretary and the applicant school for a Federal capital contribution under section 721 of the Act is reached.

[44 FR 29055, May 18, 1979, as amended at 49 FR 38112, Sept. 27, 1984; 56 FR 19293, Apr. 26, 1991; 57 FR 45734, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

§ 57.204 Payment of Federal capital contributions and reallocation of funds remitted to the Secretary.

(a) *Annual payment.* The Secretary will make payments to each school with which he or she has entered into an agreement under the Act at a time determined by him or her. If the total of the amounts requested for any fiscal year by all schools for Federal capital contributions exceeds the amount of Federal funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller:

(1) The amount requested in the application, or

(2) An amount which bears the same ratio to the total amount of Federal funds determined by the Secretary at the time of payment to be available for that fiscal year for the Health Professions Student Loan Program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in all participating schools during that year. Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, but with whatever adjustments that may be necessary to prevent the total paid to any school from exceeding the total requested by it.

(b) *Method of payment.* The payment of Federal capital contributions to a school will be paid in a manner that avoids unnecessary accumulations of money in any health professions student loan fund.

(c) *Reallocation of funds remitted to the Secretary.* All funds from a student loan fund established under this subpart which are remitted to the Secretary in any fiscal year shall be available for allotment under this subpart, in the

same fiscal year and the succeeding fiscal year, to schools which, during the period beginning on July 1, 1972, and ending on September 30, 1985, established student loan funds with Federal capital contributions under this subpart. The Secretary will from time to time set dates by which the schools must file applications to receive a portion of these funds. If the total of the amounts requested for any fiscal year by eligible schools exceeds the amount of funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller:

(1) The amount requested in the application, or

(2) An amount which bears the same ratio to the total amount of returned funds determined by the Secretary at the time of payment to be available for that fiscal year for the Health Professions Student Loan program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in all eligible schools during that year.

Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, with whatever adjustments may be necessary to prevent the total paid to any school from exceeding the total requested by it.

[44 FR 29055, May 18, 1979, as amended at 53 FR 46549, Nov. 17, 1988; 56 FR 19293, Apr. 26, 1991]

§ 57.205 Health professions student loan funds.

(a) *Funds established with Federal capital contributions.* Any fund established by a school with Federal capital contributions will be accounted for separately from other funds, providing a clear audit trail for all transactions. At all times the fund must contain monies representing the institutional capital contribution. The school must at all times maintain all monies relating to the fund in one or more interest-bearing accounts or investment instruments which meet OMB requirements established for Federal monies held by

third parties. The school must place all earnings into the fund but may first deduct from total earnings any reasonable and customary charges incurred through the use of an interest-bearing account. An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments, and shall be responsible for reimbursing the fund for any losses that occur due to the use of investments that are not federally insured.

(1) The Federal capital contribution fund is to be used by the school only for:

(i) Health professions student loans to full-time students;

(ii) Capital distribution as provided in section 728 of the Act or as agreed to by the school and the Secretary; and

(iii) Costs of litigation, costs associated with membership in credit bureaus, and to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of health professions student loans.

(2) A school must review the balance in the fund on at least a semi-annual basis to determine whether the fund balance compared with projected levels of expenditures and collections exceeds its needs. A school in closing status must review the balance in the fund on a quarterly basis. Monies identified as in excess of the school's needs must be reported, and the Federal share returned to the Federal Government, by the due date of the required report which identifies the excess monies. The school's determination is subject to the review and approval of the Secretary.

(b) *Funds established with Federal capital loans.* (1) Each Federal capital loan is subject to the terms of the promissory note executed by an authorized official on behalf of the borrowing school.

(2) The Federal capital loans must be carried in a special account of the school, to be used by the school only for (i) repayments of principal and interest on Federal capital loans; and (ii) costs of litigation; costs associated with membership in credit bureaus; and, to the extent specifically approved by the Secretary, other collection costs

that exceed the usual expenses incurred in the collection of health professions student loans.

(c) Failure to comply with the requirements of this section will subject a school to the noncompliance provisions of § 57.218 and the Department's Claims Collections regulations (45 CFR part 30), as appropriate.

(Approved by the Office of Management and Budget under control number 0915-0047)

[44 FR 29055, May 18, 1979, as amended at 48 FR 25069, June 3, 1983; 56 FR 40725, Aug. 15, 1991; 61 FR 6123, Feb. 16, 1996]

§ 57.206 Eligibility and selection of health professions student loan applicants.

(a) *Determination of eligibility.* (1) Applicants are eligible for consideration for a health professions student loan if they are:

(i) Residents of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Republic of Palau, a citizen of the Republic of the Marshall Islands, or a citizen of the Federated States of Micronesia;

(ii) Enrolled, or accepted for enrollment in the school as full-time students;

(iii) In need of the amount of the loan to pursue a full-time course of study at the school;

(iv) Of exceptional financial need in the case of students of medicine or osteopathic medicine. A student will be considered to demonstrate exceptional financial need if the school determines that his or her resources, as described in paragraph (b)(1) of this section, do not exceed the lesser of \$6,700 or one-half of the costs of attendance at the school. Summer earnings, educational loans, veterans (G.I.) benefits and earnings during the school year will not be considered as resources in determining whether an applicant meets the eligibility criteria for exceptional financial need, but will be considered in determining the amount of funds a student may receive; and

(v) In compliance with the requirement to register for the draft, if re-

quired to do so under section 3 of the Military Selective Service Act.

(2) An applicant who has previously attended an institution of higher education must submit a financial aid transcript which includes at least the following data:

(i) Applicant's name and social security number;

(ii) Amounts and sources of loans and grants previously received by the applicant for study at an institution of higher education;

(iii) Whether the applicant is in default on any of these loans, or owes a refund on any grants;

(iv) Certification from each institution previously attended by the applicant that the applicant has received no financial aid, if applicable; and

(v) From each institution previously attended, the signature of an official authorized by the institution to sign such transcripts on behalf of the institution.

(b) *Selection of applicants.* The school will select qualified applicants, including medical (M.D. and D.O.) applicants, and determine the amount of student loans by considering:

(1) The financial resources available to the student by using one of the national need analysis systems or any other procedure approved by the Secretary of Education in combination with other information which the school has regarding the student's financial status. The school must take into account, regardless of the tax status of the student, the expected contribution from parents, spouse, self or other family members; and

(2) The costs reasonably necessary for the student's attendance at the school, including any special needs and obligations which directly affect the student's ability to attend the school on a full-time basis. The school must document the criteria used for determining these costs.

(c) *Selection of medical (M.D. and D.O.) student applicants.* In addition to the factors in § 57.206(b), the school must select medical (M.D. and D.O.) students graduating after June 30, 1979, based on the order of greatest need, taking into consideration the other resources available to the student through the school. For purposes of establishing

priority for selecting medical (M.D. and D.O.) student applicants to receive health professions student loans, summer earnings, educational loans, veterans (G.I.) benefits, and earnings during the school year will be considered as financial resources.

(d) *Verification of loan information.* The school must verify, to the best of its ability, the information provided by the student on the loan application. To comply with this requirement, a school may require that a student provide, for example: Photocopies of the parents', student's, and spouse's Federal income tax forms with original signatures for the most recent tax year (or certification that no Federal income tax return was filed); tax returns that are certified as having been received by the Internal Revenue Service; or other documentation that the school considers necessary to help assure that information on the loan application is correct.

(Approved by the Office of Management and Budget under control number 0915-0047)

[44 FR 32698, June 7, 1979, as amended at 48 FR 25069, June 3, 1983; 49 FR 38112, Sept. 27, 1984; 52 FR 20987, June 3, 1987; 53 FR 46549, Nov. 17, 1988; 56 FR 19293, Apr. 26, 1991; 61 FR 6123, Feb. 16, 1996]

§ 57.207 Maximum amount of health professions student loans.

The total of the health professions student loans made from the fund to any student for a school year may not exceed \$2,500 and the cost of tuition. The maximum amount loaned during a 12-month period to any student enrolled in a school which provides a course of study longer than the 9-month school year may be proportionately increased.

§ 57.208 Health professions student loan promissory note and disclosure requirements.

(a) *Promissory note form.* Each health professions student loan must be evidenced by a properly executed promissory note in a form approved by the Secretary. The school must safeguard the promissory note against fire, theft, and tampering.

(1) Each promissory note must state that the loan will bear interest on the unpaid balance computed only for periods during which repayment of the

loan is required, at the rate of 5 percent per year.

(2) Each promissory note must contain an acceleration clause provided by the Secretary, which will permit the acceleration of delinquent loans at the school's option.

(3) A copy of each executed note must be supplied by the school to the student borrower.

(b) *Security.* A school must require security or endorsement if the borrower is a minor and if, under the applicable State law, the note signed by him or her would not create a binding obligation. The school may not require security or endorsement in any other circumstances.

(c) *Disclosure requirements.* (1) For any loan made after June 30, 1986, the school shall, at the time the loan is made, provide the following loan information to the student:

(i) The yearly and cumulative maximum amounts that may be borrowed by the student;

(ii) The terms under which repayment of the loan will begin;

(iii) The maximum number of years in which the loan must be repaid;

(iv) The interest rate that will be paid by the borrower and the minimum amount of the required monthly payment;

(v) The amount of any other fees charged to the borrower by the lender;

(vi) Any options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

(vii) A definition of default on the loan and a specification of the consequences which will result to the borrower if the borrower defaults, including a description of any arrangements which may be made with credit bureau organizations;

(viii) To the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(ix) A description of the actions that may be taken by the Federal Government to collect the loan, including a description of the type of information concerning the borrower that the Federal Government may disclose to:

Public Health Service, HHS

§ 57.210

(A) Officers, employees, or agents of the Department of Health and Human Services,

(B) Officers, employees, or agents of schools with which the Secretary has an agreement under this subpart, or

(C) Any other person involved in the collection of a loan under this subpart.

(2) For any loan made after June 30, 1986, the school shall, prior to the borrower's completion or termination of studies at the school, provide the following loan information to the student:

(i) Each amount borrowed by the student under this subpart;

(ii) The total amount borrowed by the student under this subpart; and

(iii) A schedule for the repayment of the amounts borrowed under this subpart, including the number, amount, and frequency of payments to be made.

(3) In addition to the requirements set forth in paragraphs (c)(1) and (c)(2) of this section, the school must comply with the applicable requirements of Truth in Lending Regulation Z (12 CFR part 226).

(Approved by the Office of Management and Budget under control number 0915-0047)

[44 FR 29055, May 18, 1979, as amended at 48 FR 25069, June 3, 1983; 50 FR 34420, Aug. 23, 1985; 52 FR 20987, June 3, 1987; 56 FR 19293, Apr. 26, 1991; 57 FR 45734, Oct. 5, 1992]

§ 57.209 Payment of health professions student loans.

(a) Health professions student loans from any fund may be paid to or on behalf of student borrowers in installments considered appropriate by the school except that a school may not pay to or on behalf of any borrower more during any given installment period (e.g., semester, term, or quarter) than the school determines the student needs for that period.

(b) No payment may be made from a fund to or on behalf of any student borrower if at the time of the payment the borrower is not a full-time student.

§ 57.210 Repayment and collection of health professions student loans.

(a) Each health professions student loan, including accrued interests, will be repayable in equal or graduated periodic installments in amounts calculated on the basis of a 10-year repay-

ment period. Except as otherwise provided in this paragraph, repayment of a loan must begin one year after the student ceases to be a full-time student.

(1) If a borrower reenters the same or another school as a full-time student within the 1-year period, the date upon which interest will accrue and the repayment period will begin will be determined by the date on which the student last ceases to be a full-time student at that school.

(2) The following periods will be excluded from the 10-year repayment period:

(i) All periods for up to a total of 3 years of active duty performed by the borrower as a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration Corps or the U.S. Public Health Service Corps;

(ii) All periods for up to a total of 3 years of service as a volunteer under the Peace Corps Act;

(iii) All periods of advanced professional training including internships and residencies, except as specified in paragraph (a)(2)(vi) of this section;

(iv) All periods during which the borrower is pursuing a full-time course of study at an eligible health professions school;

(v) A period not in excess of 2 years during which a borrower who is a full-time student in a health professions school leaves the school, with the intent to return to such school as a full-time student, to engage in a full-time educational activity which is directly related to the health profession for which the individual is preparing. To qualify for such deferment, the full-time educational activity must be one which:

(A) Is part of a joint-degree program or a formal program of joint study in conjunction with the health profession for which the borrower is preparing at the school; or

(B) Is an activity which will enhance the borrower's knowledge and skills in the health profession for which the borrower is preparing at the school, as determined by the school.

The borrower must request such deferment from the school in which he or she is enrolled no later than 60 days prior to leaving such school to engage

in the full-time educational activity. The school must then determine, no later than 30 days prior to the borrower's leaving such school, whether the borrower qualifies for such deferment. A borrower who qualifies for this type of deferment receives the grace period upon completion or termination of his or her studies leading to the first professional degree in the health discipline being pursued. If the borrower fails to return to school, the school retroactively must begin the borrower's grace period based on the date the borrower terminated his or her studies at the school, and must begin the repayment period immediately following the end of the grace period; and

(vi) A period not in excess of 2 years during which a borrower who is a graduate of a health professions school participates in:

(A) A fellowship training program which is directly related to the health profession for which the borrower prepared at the school, as determined by the school from which the borrower received his or her loan, and is engaged in by the borrower no later than 12 months after the completion of the borrower's participation in advanced professional training as described in paragraph (a)(2)(iii) of this section, or prior to the completion of such borrower's participation in such training. To qualify for such deferment, the fellowship training program must be one which:

(1) Is a full-time activity in research or research training or in health care policy; and

(2) Is a formally established fellowship program which was not created for a specific individual; or

(B) A full-time educational activity which is directly related to the health profession for which the borrower prepared at the school, as determined by the school from which the borrower received his or her loan, and is engaged in by the borrower no later than 12 months after the completion of the borrower's participation in advanced professional training as described in paragraph (a)(2)(iii) of this section, or prior to the completion of the borrower's participation in such training. To qualify for such deferment, the full-

time educational activity must be one which:

(1) Is part of a joint-degree program in conjunction with the health profession for which the borrower prepared at the school; or

(2) Is required for licensure, registration, or certification in the health profession for which the borrower received the HPSL loan; or

(3) Is a full-time educational program in public health, health administration, or a health care discipline directly related to the health profession for which the borrower received the loan.

(3) To receive a deferment, a borrower must, no later than 30 days prior to the onset of the activity (or no later than 30 days prior to the due date of the first payment if the borrower begins the activity during the grace period), and annually thereafter, provide the lending school with evidence of his or her status in the deferrable activity, and evidence that verifies deferment eligibility of the activity. This evidence must include certification by the Program Director or other authorized official that the borrower's activity meets the deferment requirements. The borrower must also notify the school upon completion or termination of the activity. It is the responsibility of the borrower to provide the lending school with all required information or other information regarding the requested deferment. The school may deny a request for deferment if it is not filed in accordance with the requirements of this section.

(4) Subject to the provisions of paragraph (b)(3) of this section, a borrower must establish a repayment schedule with the school providing for payments not less often than quarterly. Any borrower whose repayment is delinquent more than 60 days must establish a monthly repayment schedule with the school. However, a borrower may at his or her option and without penalty, prepay all or part of the principal and accrued interest at any time.

(5) A school may grant forbearance whenever extraordinary circumstances such as unemployment, poor health or other personal problems temporarily affect the borrower's ability to make scheduled loan repayments.

(b)(1) Each school at which a fund is established must exercise due diligence in the collection of health professions student loans due the fund. In the exercise of due diligence, a school must follow procedures which are at least as extensive and effective as those used in the collection of other student loan accounts due the school, and must use the steps outlined below in accordance with collection practices which are generally accepted among institutions of higher education:

(i) Conduct and document an entrance interview (individually or in groups) with the borrower prior to disbursing HPSL funds in an academic year. During the entrance interview the school must obtain documentation which indicates that the borrower is aware of the rights and responsibilities associated with HPSL funds and personal information which would assist in locating the borrower if he or she fails to keep the school informed of his or her current address. The requirements of this subparagraph may be met by correspondence, if the school determines that a face-to-face meeting (individually or in groups) is impracticable.

(ii) Conduct and document an exit interview (individually or in groups) with the borrower. During the exit interview, the school must provide each borrower with information necessary to carry out the terms of repayment, remind the borrower of the rights and responsibilities associated with HPSL funds, and update the personal information collected prior to disbursing HPSL funds which would assist in locating the borrower if he or she fails to keep the school informed of his or her current address. If the borrower terminates studies without advance notice, the school must document attempts to inform the borrower of the substance of the exit interview and to secure exit interview information from the borrower by mail.

(iii) Notify the borrower in writing of the impending repayment obligation at least twice during the grace period;

(iv) Notify a borrower who is in deferment status in writing of the impending repayment obligation 1 to 3 months prior to the expiration of the approved period of deferment;

(v) Perform regular billing;

(vi) Follow up past due payments with a series of at least four documented and reasonably spaced attempts to contact the borrower, at least three of which must be in writing at not more than 30-day intervals, prior to the loan becoming 120 days past due, provided that the school has a current address for the borrower;

(vii) Perform address searches when necessary;

(viii) Use collection agents, which may include the use of an internal collection agent;

(ix) Institute legal proceedings against borrowers after all other attempts at collection have failed, unless the school determines, subject to the approval of the Secretary, that such litigation would not be cost-effective; and

(x) Become a member of a credit bureau and notify the credit bureau of accounts past due by more than 120 days. In place of one or more of the procedures outlined above schools may substitute collection techniques that are equally or more effective, but only after they have demonstrated the effectiveness of the techniques and obtained written approval from the Secretary.

(2) *Late charge.* (i) For any health professions student loan made after June 30, 1969, but prior to October 22, 1985, the school may fix a charge for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment under section 722(c) of the Act for any failure to file timely and satisfactory evidence of the entitlement. The amount of the charge may not exceed \$1 for the first month or part of a month by which the installment or evidence is late and \$2 for each succeeding month or part of a month. The school may elect to add the amount of this charge to the principal amount of the loan as of the day after the day on which the installment or evidence was due, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

(ii) For any health professions student loan made on or after October 22,

1985, the school shall assess a charge for failure of the borrower to pay all or any part of an installment when the loan is more than 60 days past due and, in the case of a borrower who is entitled to deferment under section 722(c) of the Act, for any failure to file satisfactory evidence of the entitlement within 60 days of the date payment would otherwise be due. No charge may be made if the loan is less than 61 days past due. The amount of this charge may not exceed an amount equal to 6 percent of the amount due at the time the charge is calculated. The school may elect to add the amount of this charge to the principal amount of the loan as of the day on which the charge is calculated, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

(3) With respect to any health professions student loan made after June 30, 1969, the school may require the borrower to make payments of at least \$15 per month on all outstanding health professions student loans during the repayment period.

(4) A school must, on an annual basis, review and assess the collectibility of any loan more than 3 years past due. If the school determines that the prospects of future collection are promising enough to justify periodic review of the debt, and neither the statute of limitations nor the 10-year repayment period has expired, the school may retain the account for continued collections, provided that it makes an attempt at least semi-annually to collect from the borrower. When the due diligence procedures required by paragraph (b)(1) of this section have been exhausted, the school is responsible for determining the collection methods it will use for the semi-annual collection effort required on these loans. If the school determines that the prospects of future collection are not promising, or when the statute of limitations or the 10-year repayment period has expired, the loan must be considered uncollectible. A school may determine a loan to be uncollectible sooner than 3 years past due when it has evidence that the loan cannot be collected, but in no case should a school consider a loan as

uncollectible if it has not been in default for a least 120 days. A school is not subject to the requirements in paragraphs (b)(4) (i) and (iii) of this section for loans that became uncollectible, as determined by the school, before August 1, 1985.

(i) A school must request permission to write off an uncollectible loan within 30 days of the determination that it is uncollectible or reimburse the fund in the full amount of the loan, pursuant to § 57.210(b)(4)(iii). The 30-day period for submitting the loan for write-off review begins on the date that the determination of uncollectibility is made, in accordance with paragraph (b)(4) of this section. In any instance where the Secretary determines that a school has failed to exercise due diligence in the collection of a loan, in accordance with the applicable regulatory requirements, the school will be required to place in the fund the full amount of principal, interest, and penalty charges that remains uncollected on the loan. Reimbursement must be made by the following June 30 or December 31, whichever is sooner, except that in no case will a school be required to reimburse the fund in less than 30 days following the Secretary's disapproval of the request for write-off approval.

(ii) If the Secretary determines that a school has exercised due diligence in the collection of a loan, in accordance with the applicable regulatory requirements, or if the school determines that the loan was uncollectible prior to August 1, 1985, the school will be permitted to reduce its accounts receivable for the HPSL fund by the full amount of principal, interest, and penalty charges that remains uncollected on that loan and will not be required to return the Federal share of the loss to the Secretary.

(iii) If a school does not request permission to write off an uncollectible loan within the required timeframe, it must reimburse the fund for the full amount of principal, interest, and penalty charges that remains uncollected on that loan. This reimbursement must be made by the following June 30 or December 31, whichever is sooner, except that in no case will a school be required to reimburse the fund in less

Public Health Service, HHS

§ 57.213a

than 30 days following its determination that a loan is uncollectible.

(iv) Failure to comply with the requirement of this section will subject a school to the noncompliance provisions of § 57.218 and the Department's Claims Collection regulations (45 CFR part 30), as appropriate.

(5) *Disclosure of taxpayer identity information.* Upon written request by the Secretary, the Secretary of the Internal Revenue Service (IRS) may disclose the address of any taxpayer who has defaulted on a health professions student loan, for use only by officers, employees, or agents of the Department, to locate the defaulted borrower to collect the loan. Any such mailing address may be disclosed by the Secretary to any school from which the defaulted borrower received a health professions student loan, for use only by officers, employees, or agents of the school whose duties relate to the collection of health professions student loan funds, to locate the defaulted borrower to collect the loan. Any school which requests and obtains this address information must comply with the requirements of the Secretary and the IRS regarding the safeguarding and proper handling of this information.

(Approved by the Office of Management and Budget under control number 0915-0047)

[44 FR 29055, May 18, 1979, as amended at 48 FR 25069, June 3, 1983; 49 FR 38112, Sept. 27, 1984; 50 FR 34420, Aug. 23, 1985; 52 FR 20988, June 3, 1987; 53 FR 6092, Feb. 29, 1988; 56 FR 19293, Apr. 26, 1991; 56 FR 40726, Aug. 15, 1991; 57 FR 45734, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

§ 57.211 Cancellation of health professions students loans for disability or death.

(a) *Permanent and total disability.* The Secretary will cancel a student borrower's indebtedness in accordance with section 722(d) of the Act if the borrower is found to be permanently and totally disabled on recommendation of the school and as supported by whatever medical certification the Secretary may require. A borrower is totally and permanently disabled if he or she is unable to engage in any substantial gainful activity because of a medically determinable impairment, which

the Secretary expects to continue for a long time or to result in death.

(b) *Death.* The Secretary will cancel a student borrower's indebtedness in accordance with section 722(d) of the Act upon the death of the borrower. The school to which the borrower was indebted must secure a certification of death or whatever official proof is conclusive under State law.

(Approved by the Office of Management and Budget under control number 0915-0047)

[44 FR 29055, May 18, 1979, as amended at 56 FR 19293, Apr. 26, 1991; 61 FR 6123, Feb. 16, 1996]

§ 57.212 [Reserved]

§ 57.213 Continuation of provisions for cancellation of loans made prior to November 18, 1971.

Individuals who received health professions student loans as students of medicine, osteopathic medicine, dentistry or optometry prior to November 18, 1971, may still receive cancellation of these loans for practicing in a shortage area or for practicing in a rural shortage area characterized by low family income. The regulations set forth in 42 CFR 57.215(b) (1976), as adopted on February 7, 1974 remain applicable to cancellation on this basis. The provisions can be found at 39 FR 4774 (February 7, 1974) and a copy can be obtained by writing to the Division of Student Assistance, Bureau of Health Professions, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

[49 FR 38112, Sept. 27, 1984, as amended at 56 FR 19294, Apr. 26, 1991]

§ 57.213a Loan cancellation reimbursement.

(a) For loans made prior to October 22, 1985, in the event that insufficient funds are available to the Secretary in any fiscal year to enable him or her to pay to all schools their proportionate shares of all loans and interest canceled under this subpart for practice in a shortage area, death, or disability:

(1) Each school will be paid an amount bearing the same ratio to the total of the funds available for that purpose as the principal of loans canceled by that school in that fiscal year bears to the total principal of loans

canceled by all schools in that year; and

(2) Any additional amounts to which a school is entitled will be paid by the Secretary at the time of distribution of the assets of the school's Fund under section 728 of the Act.

(b) For loans made on or after October 22, 1985, a school may assess the borrower a charge to insure against the loss of the institutional share of a loan canceled due to the borrower's death or permanent and total disability. The school must develop annually a rate which reflects its cancellation experience. This charge shall not exceed .6 percent of the loan amount. Funds collected under this provision must be maintained by the school in an insured, interest-bearing account (with any earned interest credited to this insurance fund), and used only to reimburse the school for the institutional share of any HPSL loan made on or after October 22, 1985, that is canceled due to the borrower's death or permanent and total disability. A school is not required to establish a separate bank account, but is required to maintain separate accountability.

[53 FR 46549, Nov. 17, 1988, as amended at 56 FR 19294, Apr. 26, 1991; 57 FR 45734, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

§ 57.214 Repayment of loans made after November 17, 1971, for failure to complete a program of study.

In the event that the Secretary undertakes to repay educational loans under section 722(k) of the Act, he or she will use the following criteria to make a determination as to each applicant's eligibility:

(a) An applicant will be considered to have failed to complete the course of study leading to the first professional degree for which an eligible education loan was made upon certification by a health professions school that the individual ceased to be enrolled in the school subsequent to November 17, 1971;

(b) An applicant will be considered to be in exceptionally needy circumstances if, upon comparison of the income and other financial resources of the applicant with his or her expenses and financial obligations, the Secretary determines that repayment of the loan would constitute a serious

economic burden on the applicant. In making this determination, the Secretary will take into consideration the applicant's net financial assets, his or her potential earning capacity, and the relationship of the income available to the applicant to the low-income levels published annually by the Secretary under paragraph (c) of this section;

(c) An applicant will be considered to be from a low-income family if the applicant comes from a family with an annual income below a level based on low-income thresholds according to family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in this program, and the family has no substantial net financial assets. Income levels as adjusted will be published annually by the Secretary in the FEDERAL REGISTER.

(d) An applicant will be considered to be from a disadvantaged family if the individual comes from a family in which the annual income minus unusual expenses which contribute to the economic burdens borne by the family does not exceed the low-income levels published by the Secretary under paragraph (c) of this section and the family has no substantial net financial assets;

(e) An applicant will be considered as not having resumed his or her health professions studies within two years following the date the individual ceased to be a student upon a certification so stating from the applicant; and

(f) An applicant will be considered as not reasonably expected to resume his or her health professions studies within two years following the date upon which he or she terminated these studies, based upon consideration of the reasons for the applicant's failure to complete these studies, taking into account such factors as academic, medical, or financial difficulties.

The Secretary will only repay education loans made subsequent to November 17, 1971.

[44 FR 29055, May 18, 1979, as amended at 61 FR 6123, Feb. 16, 1996; 61 FR 9532, Mar. 8, 1996]

§ 57.215 Records, reports, inspection, and audit.

(a) Each Federal capital contribution and Federal capital loan is subject to the condition that the school must maintain those records and file with the Secretary those reports relating to the operation of its health professions student loan funds as the Secretary may find necessary to carry out the purposes of the Act and these regulations. A school must submit required reports to the Secretary within 45 days of the close of the reporting period.

(1) A school which fails to submit a required report for its Federal capital contribution fund within 45 days of the close of the reporting period:

(i) Shall be prohibited from receiving new Federal capital contributions;

(ii) Must place the revolving fund and all subsequent collections in an insured interest-bearing account; and

(iii) May make no loan disbursements.

The above restrictions apply until the Secretary determines that the school is in compliance with the reporting requirement.

(2) A school that fails to submit a complete report within 6 months of the close of the reporting period will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(i) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(ii) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(iii) The statement of factual issues in dispute is frivolous or inconsequential.

In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program and will be required to return the Federal share of the revolving fund to the Department. A school terminated for failure to submit a complete report within 6 months of the close of the reporting period must continue to pursue collections and may re-apply for participation in the program once it has submitted the overdue report.

(3) The school must also comply with the requirements of 45 CFR part 74 and section 798(e) of the Act concerning recordkeeping, audit, and inspection.

(b) The following student records must be retained by the school for 5 years after an individual student ceases to be a full-time student:

(1) Approved student applications for health professions student loans;

(2) Documentation of the financial need of applicants; and

(3) Copy of financial aid transcript(s).

(c) The following repayment records for each individual borrower must be retained for at least 5 years from the date of retirement of a loan:

(1) The amount and date of each loan;

(2) The amount and date of each payment or cancellation;

(3) Records of periods of deferment;

(4) Date, nature and result of each contact with the borrower or proper endorser in the collection of an overdue loan;

(5) Copies of all correspondence to or from the borrower and endorser;

(6) Copies of all correspondence with collection agents related to the individual borrower;

(7) Copies of all correspondence with a credit bureau related to an individual borrower; and

(8) Copies of all correspondence relating to uncollectible loans which have been written off by the Federal Government or repaid by the school.

§ 57.216

42 CFR Ch. I (10–1–06 Edition)

(d) The school must also retain other records as the Secretary may prescribe. In all cases where questions have arisen as a result of a Federal audit, the records must be retained until resolution of all questions.

(e) Institutional officials who have information which indicates the potential or actual commission of fraud or other offenses against the United States, involving these loan funds, should promptly provide this information to the appropriate Regional Office of Inspector General for Investigations.

(Approved by the Office of Management and Budget under control number 0915-0047)

[48 FR 25070, June 3, 1983, as amended at 50 FR 34421, Aug. 23, 1985; 53 FR 46549, Nov. 17, 1988; 56 FR 19294, Apr. 26, 1991; 57 FR 45734, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

§ 57.216 What additional Department regulations apply to schools?

(a) Participating schools are advised that in addition to complying with the terms and conditions of these regulations, several other regulations apply under this subpart. These include, but are not limited to:

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

45 CFR part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of title VI of the Civil Rights Act of 1964

45 CFR part 83—Regulation for the administration and enforcement of sections 794 and 855 of the Public Health Service Act

45 CFR part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 91—Nondiscrimination on the basis of age in Health and Human Services programs or activities receiving Federal financial assistance

45 CFR part 93—New Restrictions on Lobbying

(b) The recipient may not discriminate on the basis of religion in the ad-

mission of individuals to its training programs.

[44 FR 29055, May 18, 1979, as amended at 56 FR 19294, Apr. 26, 1991; 57 FR 45734, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

§ 57.216a Performance standard.

On June 30, 1984, and on each June 30 thereafter, except as provided in paragraph (b) of this section, each school must have a default rate (as calculated under paragraph (a) of this section) of not more than 5 percent.

(a) The default rate for each school shall be the ratio (stated as a percentage) that the defaulted principal amount outstanding of the school bears to the matured loans of the school. For this purpose:

(1) The term *defaulted principal amount outstanding* means the total amount borrowed from the loan fund of a school that has reached the repayment stage (minus any principal amount repaid or canceled) on loans in default for more than 120 days; and

(2) The term *matured loans* means the total principal amount of all loans made by a school under this subpart minus the total principal amount of loans made by the school to students who are:

(i) Enrolled in a full-time course of study at the school; or

(ii) In their grace period.

(b) Any school that has a default rate greater than 5 percent on June 30 of any year will be required to:

(1) Reduce its default rate by 50 percent (or a school with a default rate below 10 percent must reduce its rate to 5 percent) by the close of the following 6-month period; and

(2) By the end of each succeeding 6-month period, reduce its default rate to 50 percent of the required rate for the previous 6-month period, until it reaches 5 percent.

(c) Any school subject to the provisions of paragraph (b) of this section which fails to comply with those requirements will receive no new HPSL funds and will be required to:

(1) Place the revolving fund monies and all subsequent collections into an insured interest-bearing account;

(2) Make no loan disbursements; and

(3) By the end of the succeeding 6-month period, reduce its default rate to

Public Health Service, HHS

§ 57.301

50 percent of the rate it failed to achieve under paragraph (b) of this section, or 5 percent. A school that meets this requirement will be permitted to resume the use of its health professions student loan funds, but must continue to comply with the requirements of paragraph (b)(2) of this section if its default rate is still greater than 5 percent.

(d) Any school subject to the provisions of paragraph (c)(3) of this section which fails to comply with those requirements will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(1) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(2) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(3) The statement of factual issues in dispute is frivolous or inconsequential. In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program and will be required to return the Federal share of the revolving fund to the Department. A school terminated for failure to comply with the provisions of paragraph (c)(3) of this section must continue to pursue collections and may reapply for participation in the program only when it has at-

tained a default rate of 5 percent or less.

(Approved by the Office of Management and Budget under control number 0915-0047)

[50 FR 34423, Aug. 23, 1985, as amended at 52 FR 20988, June 3, 1987; 53 FR 46550, Nov. 17, 1988; 56 FR 19294, Apr. 26, 1991]

§ 57.217 Additional conditions.

The Secretary may with respect to any agreement entered into with any school under § 57.205, impose additional conditions prior to or at the time of any award when in his or her judgment these conditions are necessary to assure or protect the advancement of the purposes of the agreement, the interest of the public health, or the conservation of funds awarded.

§ 57.218 Noncompliance.

Wherever the Secretary finds that a participating school has failed to comply with the applicable provisions of the Act or the regulations of this subpart, he or she may, on reasonable notice to the school, withhold further payment of Federal capital contributions, and take such other action, including the termination of any agreement, as he or she finds necessary to enforce the Act and regulations. In this case no further expenditures shall be made from the health professions student loan fund or funds involved until the Secretary determines that there is no longer any failure of compliance.

Subpart D—Nursing Student Loans

AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216); secs. 835-842 of the Public Health Service Act, 77 Stat. 913-916, as amended by 99 Stat. 397-400, 536-537, and 102 Stat. 3160-3161 (42 U.S.C. 297 a-i).

SOURCE: 50 FR 34434, Aug. 23, 1985, unless otherwise noted.

§ 57.301 Applicability.

The regulations in this subpart apply to the Federal capital contributions made by the Secretary to public or other nonprofit schools of nursing for the establishment of nursing student loan funds and to loans made to students from these funds.

§ 57.302 Definitions.

As used in this subpart:

Academic year means the traditional, approximately 9-month September to June annual session. For the purpose of computing academic year equivalents for students who, during a 12-month period, attend for a longer period than the traditional academic year, the academic year will be considered to be of 9 months' duration.

Act means the Public Health Service Act, as amended.

Community health center means an entity as defined under section 330(a) of the Public Health Service Act, and in regulations at 42 CFR 51c.102(c).

Date upon which a student ceases to be a full-time or half-time student means the first day of the month which is nearest to the date upon which an individual ceases to be a full-time or half-time student, as defined in this section.

Default means the failure of a borrower of a loan made under this subpart to make an installment payment when due, or comply with any other term of the promissory note for such loan, except that a loan made under this subpart shall not be considered to be in default if the loan is discharged in bankruptcy, the borrower's repayment schedule has been renegotiated and the borrower is complying with the renegotiated schedule, or the loan is in forbearance.

Federal capital loan means a loan made by the Secretary to a school under section 827(a) of the Act, as in effect prior to July 29, 1975, the proceeds of which are to be returned to the Secretary.

Full-time student means a student who is enrolled in a school and pursuing a course of study which constitutes a full-time academic workload, as determined by the school, leading to a diploma in nursing, an associate degree in nursing or an equivalent degree, a baccalaureate degree in nursing or an equivalent degree, or a graduate degree in nursing.

Good standing means the eligibility of a student to continue in attendance at the school where he or she is enrolled as a student in accordance with the school's standards and practices.

Grace period means the period of 9 months beginning on the date upon

which a student ceases to be a full-time or half-time student at a school of nursing.

Half-time student means a student who is enrolled in a school and pursuing a course of study which constitutes at least one-half of a full-time academic workload but less than a full-time academic workload, as determined by the school, leading to a diploma in nursing, an associate degree in nursing or an equivalent degree, a baccalaureate degree in nursing or an equivalent degree, or a graduate degree in nursing.

Indian Health Service health center means a health care facility (whether operated directly by the Indian Health Service or operated by a tribal contractor or grantee under the Indian Self-Determination Act), which is physically separated from a hospital, and which provides one or more clinical treatment services, such as physician, dentist or nursing services, available at least 40 hours a week for outpatient care to persons of Indian or Alaska Native descent.

Institutional capital contribution means the money provided by a school, in an amount not less than one-ninth of the Federal capital contribution, and deposited in a nursing student loan fund.

Migrant health center means an entity as defined under section 329(a) of the Public Health Service Act, and in regulations at 42 CFR 56.102(g).

National of the United States means: (1) A citizen of the United States, or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States, as defined in the Immigration and Nationality Act, at 8 U.S.C. 1101(a)(22).

Native Hawaiian health center means an entity (as defined in section 8 of Public Law 100–579)—

(a) Which is organized under the laws of the State of Hawaii,

(b) Which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,

(c) Which is a public or private non-profit entity, and

(d) In which Native Hawaiian health practitioners significantly participate

in the planning, management, monitoring, and evaluation of health services.

Nursing facility means a facility as defined in section 1919(a) of the Social Security Act (SSA) (for fiscal year (FY) 1991 and subsequent fiscal years), except for FYs 1989 and 1990, the term means a "skilled nursing facility," as such term is defined in section 1861(j) of the SSA, and an "intermediate care facility," as such term is defined in section 1905(c) of such Act.

Nursing student loan means the amount of money advanced to a student by a school from a nursing student loan fund under a properly executed promissory note.

Registered nurse means an individual who has been licensed by a State Board of Nursing to practice professional nursing in accordance with State licensing laws requiring as a minimum one of the degrees or diplomas specified in this section.

Rural health clinic means an entity as defined under section 1861(aa)(2) of the Social Security Act, and in regulations at 42 CFR 491.2.

School means a public or other non-profit school of nursing, as defined in section 853 of the Act.

Secretary means the Secretary of Health and Human Services and any other officer or employee to whom the authority involved has been delegated.

State means, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

[50 FR 34434, Aug. 23, 1985, as amended at 52 FR 10195, Mar. 30, 1987; 53 FR 46554, Nov. 17, 1988; 56 FR 13771, Apr. 4, 1991; 61 FR 6123, Feb. 16, 1996]

§ 57.303 Application by school.

(a) Each school seeking a Federal capital contribution must submit an application at the time and in the form and manner that the Secretary may require. The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations im-

posed by the statute, the regulations of this subpart, and the terms and conditions of the award.

(b) Each application will be reviewed to determine eligibility and the reasonableness of the amount of Federal support requested. The Secretary may require the applicant to submit additional data for this purpose.

(c) An application will not be approved unless an agreement between the Secretary and the applicant school for a Federal capital contribution under section 835 of the Act is reached.

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 13771, Apr. 4, 1991; 57 FR 45735, Oct. 5, 1992]

§ 57.304 Payment of Federal capital contributions and reallocation of funds remitted to the Secretary.

(a) *Annual payment.* The Secretary will make payments at a time determined by him or her, to each school with which he or she has entered into an agreement under the Act.

(1) For any fiscal year for which "set-aside" funds are available, the Secretary will first make payments in the manner described in (a)(2) of this section of not less than \$1,000,000 of the amount of Federal funds determined by the Secretary at the time of payment to be available for making loans under this subpart. These funds will be paid to schools submitting an application for "set-aside" funds to be used only for the purpose of making loans to individuals qualified to receive loans under this subpart who, on the date they receive the loan, have not been employed on a full-time basis or been enrolled in any educational institution on a full-time basis for at least 7 years. An individual may not receive a loan under this subparagraph that exceeds \$500 for any academic year.

(2) If the total of the amounts requested for any fiscal year by all schools for Federal capital contributions minus the amount received under paragraph (a)(1) of this section exceeds the amount of Federal funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller: (i) The amount requested in the application, or (ii) an amount which bears the

same ratio to the total amount of Federal funds determined by the Secretary at the time of payment to be available for that fiscal year for the Nursing Student Loan program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in all participating schools during that year.

(3) Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, but with whatever adjustments that may be necessary to prevent the total paid to any school from exceeding the total requested by it.

(b) *Method of payment.* The payment of Federal capital contributions to a school will be paid in a manner that avoids unnecessary accumulations of money in any nursing student loan fund.

(c) *Reallocation of funds remitted to the Secretary.* (1) All funds from a student loan fund established under this subpart which are remitted to the Secretary in any fiscal year shall be available for allotment under this subpart, in the same fiscal year and the succeeding fiscal year, to eligible nursing schools. In making these allotments, the Secretary shall give priority to nursing schools which established a student loan fund under this subpart after September 30, 1975. The Secretary will make payments to eligible schools at a time determined by him or her, according to the procedures indicated in paragraphs (c)(2) and (c)(3) of this section.

(2) *Eligible schools which established a nursing student loan fund after September 30, 1975.* The Secretary will make awards first to those eligible schools that established a nursing student loan fund after September 30, 1975. If the total of the amounts requested for any fiscal year by these schools exceeds the amount of funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller:

(i) The amount requested in the application, or

(ii) An amount which bears the same ratio to the total amount of returned funds determined by the Secretary at the time of payment to be available for that fiscal year for the Nursing Student Loan program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in these eligible schools during that year.

Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, with whatever adjustments may be necessary to prevent the total paid to any school from exceeding the total requested by it.

(3) *Eligible schools which established a nursing student loan fund prior to October 1, 1975.* If there are funds remaining after making awards as specified by paragraph (c)(2) of this section, the Secretary will make awards to eligible schools which established a nursing student loan fund prior to October 1, 1975. If the total of the amounts requested for any fiscal year by these schools exceeds the amount of funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller:

(i) The amount requested in the application, or

(ii) An amount which bears the same ratio to the total amount of returned funds determined by the Secretary at the time of payment to be available for that fiscal year for the Nursing Student Loan program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in these eligible schools during that year.

Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, with whatever adjustments may be necessary to prevent the total paid to

any school from exceeding the total requested by it.

[50 FR 34434, Aug. 13, 1985, as amended at 53 FR 46554, Nov. 17, 1988]

§ 57.305 Nursing student loan funds.

(a) *Funds established with Federal capital contributions.* Any fund established by a school with Federal capital contributions will be accounted for separately from other funds, providing a clear audit trail for all transactions. At all times the fund must contain monies representing the institutional capital contribution. The school must at all times maintain all monies relating to the fund in one or more interest-bearing accounts or investment instruments which meet OMB requirements established for Federal monies held by third parties, except that if the school documents that the costs associated with the use of an interest-bearing account would exceed expected earnings, the school is not required to maintain these monies in an interest-bearing account. The school must place all earnings into the fund but may first deduct from total earnings any reasonable and customary charges incurred through the use of an interest-bearing account. An institution shall exercise the level of care required of a fiduciary with regard to these deposits and investments, and shall be responsible for reimbursing the fund for any losses that occur due to the use of investments that are not federally insured.

(1) The Federal capital contribution fund is to be used by the school only for:

- (i) Nursing student loans to full-time or half-time students;
- (ii) Capital distribution as provided in section 839 of the Act or as agreed to by the school and the Secretary; and
- (iii) Costs of litigation, costs associated with membership in credit bureaus, and to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of nursing student loans.

(2) A school must review the balance in the fund on at least a semi-annual basis to determine whether the fund balance compared with projected levels of expenditures and collections exceeds its needs. A school in closing status

must review the balance in the fund on a quarterly basis. Monies identified as in excess of the school's needs must be reported, and the Federal share returned to the Federal Government, by the due date of the required report which identifies the excess monies. The school's determination is subject to the review and approval of the Secretary.

(b) *Funds established with Federal capital loans.* (1) Each Federal capital loan is subject to the terms of the promissory note executed by an authorized official on behalf of the borrowing school.

(2) The Federal capital loans must be carried in a special account of the school, to be used by the school only for: (i) Repayments of principal and interest on Federal capital loans; and (ii) costs of litigation, costs associated with membership in credit bureaus, and, to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of nursing student loans.

(c) Failure to comply with the requirements of this section will subject a school to the noncompliance provisions of § 57.318 and the Department's Claims Collections regulations (45 CFR part 30), as appropriate.

(Approved by the Office of Management and Budget under control number 0915-0047)

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 40734, Aug. 15, 1991; 61 FR 6123, Feb. 16, 1996]

§ 57.306 Eligibility and selection of nursing student loan applicants.

(a) *Determination of eligibility.* (1) Applicants are eligible for consideration for a nursing student loan if they are:

(i) Residents of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Republic of Palau, a citizen of the Republic of the Marshall Islands, or a citizen of the Federated States of Micronesia;

(ii) Enrolled, or accepted for enrollment in the school as full-time or half-time students;

(iii) In need of the amount of the loan to pursue the course of study at the school; and

(iv) Capable, in the opinion of the school, of maintaining good standing in the course of study.

(2) An applicant who has previously attended an institution of higher education must submit a financial aid transcript which includes at least the following data:

(i) Applicant's name and social security number;

(ii) Amounts and sources of loans and grants previously received by the applicant for study at an institution of higher education;

(iii) Whether the applicant is in default on any of these loans, or owes a refund on any grants;

(iv) Certification from each institution previously attended by the applicant that the applicant has received no financial aid, if applicable; and

(v) From each institution previously attended, the signature of an official authorized by the institution to sign such transcripts on behalf of the institution.

(b) *Selection of nursing student loan applicants and determinations of need.* The school will select qualified applicants, make reasonable determinations of need, and determine the amount of student loans.

(1) In selecting nursing student loan applicants the school will give preference to licensed practical nurses, and to persons with exceptional financial need. For purposes of this preference, a student will be considered to demonstrate exceptional financial need if the school determines that the student's resources, as described in paragraph (b)(2)(i) of this section, do not exceed one-half of the costs of attendance at the school. Summer earnings, educational loans, veterans (G.I.) benefits, earnings during the school year, and Aid to Families with Dependent Children (AFDC) will not be considered as resources in determining whether an applicant meets these criteria for exceptional financial need, but will be considered in determining the amount of funds a student may receive.

(2) In determining whether a student is in need of a nursing student loan to pursue a full-time or half-time course

of study at the school, the school will take into consideration:

(i) The financial resources available to the student by using one of the national need analysis systems or any other procedure approved by the Secretary of Education in combination with other information which the school has regarding the student's financial status; and

(ii) The costs reasonably necessary for the student's attendance at the school, including any special needs and obligations which directly affect the student's financial ability to attend the school on a full-time or half-time basis. The school must document the criteria used for determining these costs.

(c) *Verification of loan information.* The school must verify, to the best of its ability, the information provided by the student on the loan application. To comply with this requirement, a school may require that a student provide, for example: Photocopies of the parents', student's, and spouse's Federal income tax forms with original signatures for the most recent tax year (or certification that no Federal income tax return was filed); tax returns that are certified as having been received by the Internal Revenue Service; or other documentation that the school considers necessary to help assure that information on the loan application is correct.

(Approved by the Office of Management and Budget under control number 0915-0047)

[50 FR 34434, Aug. 23, 1985, as amended at 53 FR 46554, Nov. 17, 1988; 56 FR 13771, Apr. 4, 1991; 61 FR 6123, Feb. 16, 1996]

§ 57.307 Maximum amount of nursing student loans.

The total of the nursing student loans made from the fund to any student for an academic year may not exceed \$2,500, except that for each of the final 2 academic years of the program, the total must not exceed \$4,000. The maximum amount loaned during a 12-month period to any student enrolled in a school which provides a course of

study longer than the 9-month academic year may be proportionately increased. The total of all nursing student loans to any student must not exceed \$13,000.

[56 FR 13771, Apr. 4, 1991]

§ 57.308 Nursing student loan promissory note.

(a) *Promissory note form.* Each nursing student loan must be evidenced by a properly executed promissory note in a form approved by the Secretary. The school must safeguard the promissory note against fire, theft, and tampering.

(1) Each promissory note must state that the loan will bear interest on the unpaid balance computed only for periods during which repayment of the loan is required, at the rate of 5 percent per year.

(2) Each promissory note must contain an acceleration clause provided by the Secretary, which will permit the acceleration of delinquent loans at the school's option.

(3) A copy of each executed note must be supplied by the school to the student borrower.

(b) *Security.* A school must require security or endorsement if the borrower is a minor and if, under the applicable State law, the note signed by him or her would not create a binding obligation. The school may not require security or endorsement in any other circumstances.

(Approved by the Office of Management and Budget under control number 0915-0047)

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 13771, Apr. 4, 1991; 57 FR 45735, Oct. 5, 1992]

§ 57.309 Payment of nursing student loans.

(a) Nursing student loans from any fund may be paid to or on behalf of student borrowers in installments considered appropriate by the school except that a school may not pay to or on behalf of any borrower more during any given installment period (e.g., semester, term, or quarter) than the school determines the student needs for that period.

(b) No payment may be made from a fund to or on behalf of any student borrower if at the time of the payment the

borrower is not a full-time or half-time student.

§ 57.310 Repayment and collection of nursing student loans.

(a) Each nursing student loan, including accrued interest, will be repayable in equal or graduated periodic installments in amounts calculated on the basis of a 10-year repayment period. Repayment of a loan must begin 9 months after the student ceases to be a full-time or half-time student, except that if a borrower reenters the same or another school as a full-time or half-time student within the 9-month period, the date upon which interest will accrue and the repayment period will begin will be determined by the date upon which the student last ceases to be a full-time or half-time student at that school.

(1) The following periods will be excluded from the 10-year repayment period: (i) All periods up to a total of 3 years of active duty performed by the borrower as a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration Corps or the U.S. Public Health Service Commissioned Corps;

(ii) All periods up to a total of 3 years of service as a volunteer under the Peace Corps Act; and

(iii) All periods up to a total of 10 years during which the borrower is pursuing a full-time or half-time course of study at a school leading to a baccalaureate degree in nursing or an equivalent degree, or to a graduate degree in nursing, or is otherwise pursuing advanced professional training in nursing (or training to be a nurse anesthetist). For purposes of this paragraph, "otherwise pursuing advanced professional training in nursing" shall include full-time or half-time training, beyond the first diploma or degree in nursing received by the particular borrower, of at least 1 academic year which will advance the borrower's knowledge of and strengthen his or her skills in the provision of nursing services.¹

¹Individuals who received nursing student loans prior to July 1, 1969, remain subject to the repayment provisions of 42 CFR 57.314(a)(3)(1976) as adopted on February 4,

Continued

(2) Subject to the provisions of paragraph (b)(3) of this section, a borrower must establish a repayment schedule with the school providing for payments not less often than quarterly. Any borrower whose repayment becomes more than 60 days past due must be placed on a monthly repayment schedule by the school. A borrower may at his or her option and without penalty, prepay all or part of the principal and accrued interest at any time.

(3) A school may grant forbearance whenever extraordinary circumstances such as unemployment, poor health or other personal problems temporarily affect the borrower's ability to make scheduled loan repayments.

(b) *Collection of nursing student loans.*

(1) Each school at which a fund is established must exercise due diligence in the collection of nursing student loans due the fund. In the exercise of due diligence, a school must follow procedures which are at least as extensive and effective as those used in the collection of other student loan accounts due the school, and must use the steps outlined below in accordance with collection practices which are generally accepted among institutions of higher education:

(i) Conduct and document an entrance interview (individually or in groups) with the borrower prior to disbursing NSL funds in any academic year. During the entrance interview the school must obtain documentation which indicates that the borrower is aware of the rights and responsibilities associated with NSL funds and personal information which would assist in locating the borrower if he or she fails to keep the school informed of his or her current address. The requirement of this subparagraph may be met by correspondence if the school determines that a face-to-face meeting (individually or in groups) is impracticable.

(ii) Conduct and document an exit interview (individually or in groups) with the borrower. During the exit

interview, the school must provide each borrower with information necessary to carry out the terms of repayment, remind the borrower of the rights and responsibilities associated with NSL funds, and update the personal information collected prior to disbursing NSL funds which would assist in locating the borrower if he or she fails to keep the school informed of his or her current address. If the borrower terminates studies without advance notice, the school must document attempts to inform the borrower of the substance of the exit interview and to secure exit interview information from the borrower by mail.

(iii) Notify the borrower in writing of the impending repayment obligation at least twice during the grace period;

(iv) Notify a borrower who is in deferment status in writing of the impending repayment obligation 1 to 3 months prior to the expiration of the approved period of deferment;

(v) Perform regular billing;

(vi) Follow up past due payments with a series of at least four documented and reasonably spaced attempts to contact the borrower, at least three of which must be in writing at not more than 30-day intervals, prior to the loan becoming 120 days past due, provided that the school has a current address for the borrower;

(vii) Perform address searches when necessary;

(viii) Use collection agents, which may include the use of an internal collection agent;

(ix) Institute legal proceedings against borrowers after all other attempts at collection have failed, unless the school determines, subject to the approval of the Secretary, that such litigation would not be cost-effective; and

(x) Become a member of a credit bureau and notify the credit bureau of accounts past due by more than 120 days.

In place of one or more of the procedures outlined above schools may substitute collection techniques that are equally or more effective, but only after they have demonstrated the effectiveness of the techniques and obtained written approval from the Secretary.

(2) *Late charge.* (i) For any nursing student loan made after June 30, 1969,

1974. These provisions can be found at 39 FR 16473 (May 9, 1974), and a copy can be obtained by writing the Division of Student Assistance, Bureau of Health Professions, 5600 Fishers Lane, Parklawn Building, room 8-34, Rockville, MD 20857.

but prior to October 1, 1985, the school may fix a charge for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment under section 836(b)(2) of the Act, or cancellation or repayment under section 836(b)(3) of the Act, for any failure to file timely and satisfactory evidence of the entitlement. The amount of the charge may not exceed \$1 for the first month or part of a month by which the installment or evidence is late and \$2 for each succeeding month or part of a month. The school may elect to add the amount of this charge to the principal amount of the loan as of the day after the day on which the installment or evidence was due, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

(ii) For any nursing student loan made on or after October 1, 1985, the school shall assess a charge for failure of the borrower to pay all or any part of an installment when the loan is more than 60 days past due and, in the case of a borrower who is entitled to deferment under section 836(b)(2) of the Act, for any failure to file satisfactory evidence of the entitlement within 60 days of the date payment would otherwise be due. No charge may be made if the loan is less than 61 days past due. The amount of this charge may not exceed an amount equal to 6 percent of the amount due at the time the charge is calculated. The school may elect to add the amount of this charge to the principal amount of the loan as of the day on which the charge is calculated, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

(3) With respect to any nursing student loan made after June 30, 1969, the school may require the borrower to make payments of at least \$15 per month on all outstanding nursing student loans during the repayment period.

(4) A school must, on an annual basis, review and assess the collectibility of any loan more than 3 years past due. If

the school determines that the prospects of future collection are promising enough to justify periodic review of the debt, and neither the statute of limitations nor the 10-year repayment period has expired, the school may retain the account for continued collections, provided that it makes an attempt at least semi-annually to collect from the borrower. When the due diligence procedures required by paragraph (b)(1) of this section have been exhausted, the school is responsible for determining the collection methods it will use for the semi-annual collection effort required on these loans. If the school determines that the prospects of future collection are not promising, or when the statute of limitations or the 10-year repayment period has expired, the loan must be considered uncollectible. A school may determine a loan to be uncollectible sooner than 3 years past due when it has evidence that the loan cannot be collected, but in no case should a school consider a loan as uncollectible if it has not been in default for at least 120 days. A school is not subject to the requirements in paragraphs (b)(4) (i) and (iii) of this section for loans that became uncollectible, as determined by the school, before January 1, 1983.

(i) A school must request permission to write off an uncollectible loan within 30 days of the determination that it is uncollectible or reimburse the fund in the full amount of the loan, pursuant to § 57.310(b)(4)(iii). The 30-day period for submitting the loan for write-off review begins on the date that the determination of uncollectibility is made, in accordance with paragraph (b)(4) of this section. In any instance where the Secretary determines that a school has failed to exercise due diligence in the collection of a loan, in accordance with the applicable regulatory requirements, the school will be required to place in the fund the full amount of principal, interest, and penalty charges that remains uncollected on the loan. Reimbursement must be made by the following June 30 or December 31, whichever is sooner, except that in no case will a school be required to reimburse the fund in less than 30 days following the Secretary's

§57.311

disapproval of the request for write-off approval.

(ii) If the Secretary determines that a school has exercised due diligence in the collection of a loan, in accordance with the applicable regulatory requirements, or if the school determines that the loan was uncollectible prior to January 1, 1983, the school will be permitted to reduce its accounts receivable for the NSL fund by the full amount of principal, interest, and penalty charges that remains uncollected on that loan and will not be required to return the Federal share of the loss to the Secretary.

(iii) If a school does not request permission to write off an uncollectible loan within the required timeframe, it must reimburse the fund for the full amount of principal, interest, and penalty charges that remains uncollected on that loan. This reimbursement must be made by the following June 30 or December 31, whichever is sooner, except that in no case will a school be required to reimburse the fund in less than 30 days following its determination that a loan is uncollectible.

(iv) Failure to comply with the requirements of this section will subject a school to the noncompliance provisions of §57.318 and the Department's Claims Collection regulations (45 CFR part 30), as appropriate.

(5) *Disclosure of taxpayer identity information.* Upon written request by the Secretary, the Secretary of the Internal Revenue Service (IRS) may disclose the address of any taxpayer who has defaulted on a nursing student loan, for use only by officers, employees, or agents of the Department, to locate the defaulted borrower to collect the loan. Any such mailing address may be disclosed by the Secretary to any school from which the defaulted borrower received a nursing student loan, for use only by officers, employees, or agents of the school whose duties relate to the collection of nursing student loan funds, to locate the defaulted borrower to collect the loan. Any school which requests and obtains such address information must comply with the requirements of the Secretary and the

42 CFR Ch. I (10–1–06 Edition)

IRS regarding the safeguarding and proper handling of this information.

(Approved by the Office of Management and Budget under control number 0915–0047)

[50 FR 34434, Aug. 23, 1985, as amended at 52 FR 10195, Mar. 30, 1987; 56 FR 13771, Apr. 4, 1991; 56 FR 40734, Aug. 15, 1991; 57 FR 45735, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

§57.311 Cancellation of nursing student loans for disability or death.

(a) *Permanent and total disability.* The Secretary will cancel a borrower's indebtedness in accordance with section 836(b)(4) of the Act if the borrower is found to be permanently and totally disabled on recommendation of the school and as supported by whatever medical certification the Secretary may require. A borrower is totally and permanently disabled if he or she is unable to engage in any substantial gainful activity because of a medically determinable impairment, which the Secretary expects to continue for a long time or to result in death.

(b) *Death.* The Secretary will cancel a borrower's indebtedness in accordance with section 836(b)(4) of the Act upon the death of the borrower. The school to which the borrower was indebted must secure a certification of death or whatever official proof is conclusive under State law.

(Approved by the Office of Management and Budget under control number 0915–0047)

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 13772, Apr. 4, 1991]

§57.312 Repayment of loans for service in a shortage area.

(a) *Service in a shortage area.* Subject to the availability of funds, a person who:

(1) Has obtained a degree as specified in section 846(a)(1) of the Act;

(2) Has obtained one or more nursing student loans or any other loans necessary for costs (including tuition, books, fees, equipment, living and other expenses which the Secretary determines were necessary) of attending a school of nursing; and

(3) Enters into an agreement with the Secretary to serve as a full-time registered nurse for a period of not less than 2 years in an Indian Health Service health center, a Native Hawaiian

health center, a public hospital, a migrant health center, a community health center, a nursing facility, a rural health clinic, or in a health facility determined by the Secretary to have a critical shortage of nurses, will have a portion of these loans repaid by the Secretary in accordance with paragraph (c) of this section. Prior to entering an agreement for repayment of loans, other than nursing student loans, the Secretary will require that satisfactory evidence be provided of the existence and reasonableness of the education loans (i.e., a copy of the written loan agreement establishing the loan).

(b) When entering into agreements under paragraph (a) of this section, the Secretary shall give priority to:

(1) Applicants with the greatest financial need; and

(2) Applicants that, with respect to health facilities described in paragraph (a)(3) of this section, agree to serve in such facilities located in geographic areas with a shortage of and need for nurses, as determined by the Secretary.

(3) In addition to the priorities under paragraphs (b) (1) and (2) of this section, should specific needs warrant, the Secretary may establish additional preferences which will be announced from time to time in the FEDERAL REGISTER.

(c) *Repayment.* Loan repayment will be made by the Secretary to persons who meet the conditions set forth in paragraph (a) of this section. Payment will be as follows:

(1) Upon completion by the borrower of the first year of service as specified in the agreement, the Secretary will pay 30 percent of the principal of, and the interest on, each loan which was unpaid as of the date the borrower began his or her service;

(2) Upon completion by the borrower of the second year of service, the Secretary will pay another 30 percent of the principal of, and the interest on, each loan which was unpaid as of the date the borrower began his or her service;

(3) Upon completion by the borrower of a third year of service, the Secretary will pay another 25 percent of the principal of, and the interest on, each loan

which was unpaid as of the date the borrower began his or her service; and

(4) No more than 85 percent of the principal of any loan will be paid under this section.

(Approved by the Office of Management and Budget under control number 0915-0047)

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 13772, Apr. 4, 1991; 61 FR 6123, Feb. 16, 1996]

§ 57.313 Loan cancellation for full-time employment as a registered nurse.

(a) *For loans made after November 18, 1971, and before September 29, 1979.* A person who: (1) Received one or more nursing student loans after November 18, 1971, and before September 29, 1979; (2) is in compliance with the requirements of title VIII of the Act and these regulations; and (3) engages in full-time employment as a registered nurse (including teaching in any of the fields of nurse training or service as an administrator, supervisor, or consultant in any of the fields of nursing) in any public or nonprofit private agency, institution, or organization (including neighborhood health centers) is entitled to have a portion of these nursing student loans canceled as follows: 15 percent of the total amount of the loans plus accrued interest on the loan which is unpaid on the first day of his or her service, for each of the first, second, and third year of service; and 20 percent of the total amount of the loan plus accrued interest on the loan for each complete fourth and fifth year of service thereafter, up to 85 percent of the total of the loans, plus accrued interest.

(b) *Continuation of provisions for cancellation of loans made prior to November 18, 1971.* A person who received one or more nursing student loans prior to November 18, 1971, may still receive cancellation of these loans for service under section 836(h) of the Act. The regulations set forth in 42 CFR 57.316 (a) and (b)(6) (1976), as adopted on February 4, 1974, remain applicable to cancellation on this basis. The provisions can be found at 39 FR 16473 (May 9, 1974) and a copy can be obtained by writing to the Division of Student Assistance, Bureau of Health Professions, Room 8-34, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

§ 57.313a

(c) The determination of whether a person is entitled to have any portion of his or her nursing student loan canceled for full-time employment as a registered nurse will be made by the institution to whose fund his or her loan is payable, upon receipt and evaluation of an application for cancellation from that person.

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 13772, Apr. 4, 1991; 57 FR 45735, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

§ 57.313a Loan cancellation reimbursement.

In the event that insufficient funds are available to the Secretary in any fiscal year to enable him or her to pay to all schools their proportionate shares of all loans and interest canceled under this subpart for full-time employment as a nurse, death, or disability:

(a) Each school will be paid an amount bearing the same ratio to the total of the funds available for that purpose as the principal of loans canceled by that school in that fiscal year bears to the total principal of loans canceled by all schools in that year; and

(b) Any additional amounts to which a school is entitled will be paid by the Secretary at the time of distribution of the assets of the school's fund under section 839 of the Act.

§ 57.314 Repayment of loans made after November 17, 1971, for failure to complete a program of study.²

In the event that the Secretary undertakes to repay educational loans under section 836(i) of the Act, he or she will use the following criteria to make a determination as to each applicant's eligibility:

(a) An applicant will be considered to have failed to complete the course of study in nursing for which an eligible education loan was made upon certification by a school of nursing that the individual ceased to be enrolled in the school subsequent to November 17, 1971;

²Effective November 26, 1984, the Secretary stopped accepting applications under § 57.314 because Federal funds are not available for this provision.

42 CFR Ch. I (10–1–06 Edition)

(b) An applicant will be considered to be in exceptionally needy circumstances if, upon comparison of the income and other financial resources of the applicant with his or her expenses and financial obligations, the Secretary determines that repayment of the loan would constitute a serious economic burden on the applicant. In making this determination, the Secretary will take into consideration the applicant's net financial assets, his or her potential earning capacity, and the relationship of the income available to the applicant to the low-income levels published annually by the Secretary in the FEDERAL REGISTER;

(c) An applicant will be considered as not having resumed his or her nursing studies within 2 years following the date the individual ceased to be a student upon certification so stating from the applicant; and

(d) An applicant will be considered as not reasonably expected to resume his or her nursing studies within 2 years following the date upon which he or she terminated these studies, based upon consideration of the reasons for the applicant's failure to complete these studies, taking into account such factors as academic, medical, or financial difficulties. The Secretary will only repay education loans made after November 17, 1971.

[50 FR 34434, Aug. 23, 1985, as amended at 56 FR 13772, Apr. 4, 1991; 57 FR 45735, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

§ 57.315 Records, reports, inspection, and audit.

(a) *Records and reports.* (1) Each Federal capital contribution and Federal capital loan is subject to the condition that the school must maintain those records and file with the Secretary those reports relating to the operation of its nursing student loan funds as the Secretary may find necessary to carry out the purposes of the Act and these regulations. A school must submit required reports to the Secretary within 45 days of the close of the reporting period.

(i) A school which fails to submit a required report for its Federal capital contribution fund within 45 days of the close of the reporting period:

(A) Shall be prohibited from receiving new Federal capital contributions;

(B) Must place the revolving fund and all subsequent collections in an insured interest-bearing account; and

(C) May make no loan disbursements.

The above restrictions apply until the Secretary determines that the school is in compliance with the reporting requirement.

(ii) A school that fails to submit a complete report within 6 months of the close of the reporting period will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(A) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(B) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(C) The statement of factual issues in dispute is frivolous or inconsequential. In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program and will be required to return the Federal share of the revolving fund to the Department. A school terminated for failure to submit a complete report within 6 months of the close of the reporting period must continue to pursue collections and may reapply for participation in the program once it has submitted the overdue report.

(2) The following student records must be retained by the school for 5

years after the individual student ceases to be a full-time or half-time student:

(i) Approved student applications for nursing student loans;

(ii) Documentation of the financial need of applicants; and

(iii) Copy of financial aid transcripts.

(3) The following repayment records for each individual borrower must be retained for at least 5 years from the date of retirement of a loan:

(i) The amount and date of each loan;

(ii) The amount and date of each payment or cancellation;

(iii) Records of periods of deferment;

(iv) Date, nature, and result of each contract with the borrower or proper endorser in the collection of an overdue loan;

(v) Copies of all correspondence to or from the borrower and endorser;

(vi) Copies of all correspondence with a collection agency related to the individual borrower;

(vii) Copies of all correspondence with a credit bureau related to an individual borrower; and

(viii) Copies of all correspondence relating to uncollectible loans which have been written off by the Federal Government or repaid by the school.

(4) The school must also retain other records as the Secretary may prescribe. In all cases where questions have arisen as a result of a Federal audit, the records must be retained until resolution of all questions.

(b) *Inspection and audit.* (1) Any application for a Federal capital contribution will constitute the consent of the applicant school to inspection and fiscal audit, by the Secretary and the Comptroller General of the United States or any of their duly authorized representatives, of the fiscal and other records of the applicant school which relate to the Federal capital contribution or Federal capital loan.

(2) The school must comply with the audit requirements of the Department of Health and Human Services' Administration of Grants regulations which are set forth in 45 CFR part 74.

(c) Institutional officials who have information which indicates the potential or actual commission of fraud or other offenses against the United States, involving these loan funds,

§ 57.316

42 CFR Ch. I (10–1–06 Edition)

should promptly provide this information to the appropriate Regional Office of Inspector General for Investigations.

(Approved by the Office of Management and Budget under control number 0915–0047)

[50 FR 34434, Aug. 23, 1985, as amended at 53 FR 46555, Nov. 17, 1988; 56 FR 13772, Apr. 4, 1991; 57 FR 45735, Oct. 1, 1992]

§ 57.316 What additional Department regulations apply to schools?

Participating schools are advised that in addition to complying with the terms and conditions of these regulations, several other regulations apply under this subpart. These include, but are not limited to:

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

45 CFR part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of title VI of the Civil Rights Act of 1964

45 CFR part 83—Regulation for the administration and enforcement of sections 794 and 855 of the Public Health Service Act

45 CFR part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 91—Nondiscrimination on the basis of age in Health and Human Services programs or activities receiving Federal financial assistance

45 CFR part 93—New Restrictions on Lobbying

[56 FR 13772, Apr. 4, 1991, as amended at 57 FR 45735, Oct. 5, 1992; 61 FR 6123, Feb. 16, 1996]

§ 57.316a Performance standard.

On June 30, 1986, and on each June 30 thereafter, except as provided in paragraph (b) of this section, each school must have a default rate (as calculated under paragraph (a) of this section) of not more than 5 percent.

(a) The default rate for each school shall be the ratio (stated as a percentage) that the defaulted principal amount outstanding of the school bears to the matured loans of the school. For this purpose:

(1) The term “defaulted principal amount outstanding” means the total amount borrowed from the loan fund of a school that has reached the repayment stage (minus any principal amount repaid or canceled) on loans in default for more than 120 days; and

(2) The term “matured loans” means the total principal amount of all loans made by a school under this subpart minus the total principal amount of loans made by the school to students who are:

(i) Enrolled in a full-time or half-time course of study at the school; or

(ii) In their grace period.

(b) Any school that has a default rate greater than 5 percent on June 30, 1986, or on June 30 of any year thereafter will be required to:

(1) Reduce its default rate by 50 percent (or a school with a default rate below 10 percent must reduce its rate to 5 percent) by the close of the following 6-month period; and

(2) By the end of each succeeding 6-month period, reduce its default rate to 50 percent of the required rate for the previous 6-month period, until it reaches 5 percent.

(c) Any school subject to the provisions of paragraph (b) of this section which fails to comply with those requirements will receive no new NSL funds and will be required to:

(1) Place the revolving fund monies and all subsequent collections into an insured interest-bearing account;

(2) Make no loan disbursements; and

(3) By the end of the succeeding 6-month period, reduce its default rate to 50 percent of the rate it failed to achieve under paragraph (b) of this section, or 5 percent. A school that meets this requirement will be permitted to resume the use of its nursing student loan funds, but must continue to comply with the requirements of paragraph (b)(2) of this section if its default rate is still greater than 5 percent.

A school that meets the requirements of subparagraph (c)(3) of this section will be permitted to resume the use of its NSL funds, but must continue to comply with the requirements of subparagraph (b)(2) of this section if its delinquency rate is still greater than 5 percent.

(d) Any school subject to the provisions of paragraph (c)(3) of this section which fails to comply with those requirements will be subject to termination. The Secretary will provide the school with a written notice specifying his or her intention to terminate the school's participation in the program and stating that the school may request, within 30 days of the receipt of this notice, a formal hearing. If the school requests a hearing, it must within 90 days of the receipt of the notice, submit material, factual issues in dispute to demonstrate that there is cause for a hearing. These issues must be both substantive and relevant. The hearing will be held in the Washington, DC metropolitan area. The Secretary will deny a hearing if:

(1) The request for a hearing is untimely (i.e., fails to meet the 30-day requirement);

(2) The school does not provide a statement of material, factual issues in dispute within the 90-day required period; or

(3) The statement of factual issues in dispute is frivolous or inconsequential. In the event that the Secretary denies a hearing, the Secretary will send a written denial to the school setting forth the reasons for denial. If a hearing is denied, or if as a result of the hearing, termination is still determined to be necessary, the school will be terminated from participation in the program and will be required to return the Federal share of the revolving fund to the Department. A school terminated for failure to comply with the provisions of paragraph (c)(3) of this section must continue to pursue collections and may reapply for participation in the program only when it has attained a default rate of 5 percent or less.

(Approved by the Office of Management and Budget under control number 0915-0047)

[50 FR 34434, Aug. 23, 1985, as amended at 52 FR 10195, Mar. 30, 1987; 53 FR 46555, Nov. 17, 1988; 56 FR 13772, Apr. 4, 1991]

§ 57.317 Additional conditions.

The Secretary may, with respect to any agreement entered into with any school under § 57.305, impose additional conditions prior to or at the time of any award when in his or her judgment

the conditions are necessary to assure or protect advancement of the purposes of the agreement, the interest of the public health, or the conservation of funds awarded.

§ 57.318 Noncompliance.

Whenever the Secretary finds that a participating school has failed to comply with the applicable provisions of the Act or the regulations of this subpart he or she may, on reasonable notice to the school, withhold further payments of Federal capital contributions and take other action, including the termination of any agreement, as he or she finds necessary to enforce the Act and regulations. In such case no further expenditures shall be made from the nursing student loan fund or funds involved until the Secretary determines that there is no longer any failure of compliance.

Subpart E—Grants for Construction of Nurse Training Facilities

AUTHORITY: Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216.

§ 57.409 Good cause for other use of completed facility.

If, within 20 years after completion of construction (or, in the case of interim facilities prior to the time at which teaching in such facilities is moved to a permanent facility, whichever comes first), the facility shall cease to be used for any one or more of the purposes for which it was constructed, the Secretary, in determining whether there is good cause for releasing the applicant or other owner of the facility from the obligation so to use the facility, shall take into consideration the extent to which:

(a) The facility will be devoted by the applicant or other owner to the teaching of other health personnel;

(b) There are reasonable assurances that for the remainder of such period other facilities not previously utilized for nurse training will be so utilized and are substantially the equivalent in nature and extent for such purposes.

[37 FR 20548, Sept. 30, 1972]

Subparts F–O [Reserved]

Subpart P—Loan Guarantees and Interest Subsidies to Assist in Construction of Teaching Facilities for Health Profession Personnel

AUTHORITY: Sec. 727, Public Health Service Act, 77 Stat. 170, as amended (42 U.S.C. 293g).

SOURCE: 38 FR 31836, Nov. 19, 1973, unless otherwise noted.

§ 57.1501 Applicability.

The regulations of this subpart are applicable to loan guarantees and interest subsidy payments made pursuant to section 729 of the Public Health Service Act (42 U.S.C. 293i) to assist nonprofit private entities which are eligible for grants under subpart B of this part in carrying out projects for construction of teaching facilities for health professions personnel.

§ 57.1502 Definitions.

As used in this subpart:

(a) All terms not defined herein shall have the same meanings as given them in section 724 of the Act.

(b) *Act* means the Public Health Service Act, as amended.

(c) *Secretary* means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved may be delegated.

(d) *School* means a school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health which provides a course of study or a portion thereof which leads respectively to a degree of doctor of medicine, doctor of dental surgery or an equivalent degree, doctor of osteopathy, doctor of optometry or an equivalent degree, doctor of podiatry or an equivalent degree, bachelor of science in pharmacy or an equivalent degree, doctor of veterinary medicine or an equivalent degree, or a graduate degree in public health, and which is accredited as provided in section 721(b)(1) of the Act.

(e) *Affiliated hospital* or *affiliated outpatient facility* means a hospital or outpatient facility (as defined in section 645 of the Act) which, although not owned by such school, has a written

agreement with a school of medicine, osteopathy, or dentistry eligible for assistance under subpart B of this part, providing for effective control by the school of the health professions teaching program in the hospital or outpatient facility.

(f) *Nonprofit* as applied to any school, hospital, outpatient facility, or other entity means one which is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure to the benefit of any private shareholder or individual.

(g) *Council* means the National Advisory Council on Health Professions Education (established pursuant to section 725 of the Act).

§ 57.1503 Eligibility.

(a) *Eligible applicants.* In order to be eligible for a loan guarantee or interest subsidy under this subpart, the applicant shall:

(1) Be a nonprofit private school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, or any combination of such schools, or a nonprofit private affiliated hospital or affiliated outpatient facility: *Provided, however,* That in the case of an affiliated hospital or affiliated outpatient facility, an application which is approved by the school of medicine, osteopathy or dentistry with which the hospital or outpatient facility is affiliated and which otherwise complies with the requirements of subpart B of this part may be filed by any nonprofit private entity qualified to file an application under section 605 of the Act; and

(2) Otherwise meet the applicable requirements set forth in section 721(b) of the Act and § 57.103 with respect to eligibility for grants for construction of teaching facilities for health professions personnel.

(b) *Eligible loans.* Subject to the provisions of this subpart, the Secretary may guarantee payment, when due, of principal and interest on, or may pay interest subsidies with respect to, or may both guarantee and pay interest subsidies with respect to any loan or

portion thereof made to an eligible applicant by a non-Federal lender: *Provided*, That no such guarantee or interest subsidy shall apply to any loan the interest on which is exempt from Federal income taxation.

§ 57.1504 Application.

Each applicant desiring to have a loan guaranteed or to have interest subsidies paid on its behalf, or any combination of such loan guarantee or interest subsidies, shall submit an application for such assistance in such form and manner and at such time as the Secretary may require.¹

(a) The application shall contain or be supported by such information as the Secretary may require to enable him to make the determinations required of him under the Act and this subpart.

(b) The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any loan guarantee or agreement to pay interest subsidies, including the applicable regulations of this subpart.

[38 FR 31836, Nov. 19, 1973, as amended at 49 FR 38113, Sept. 27, 1984]

§ 57.1505 Approval of applications.

(a) *General*. Any application for loan guarantee or interest subsidies, or for a combination of both, may be approved by the Secretary, after consultation with the Council, only if he makes each of the applicable determinations set forth in section 721(c) of the Act. In addition:

(1) Any such approval shall be subject to compliance by the applicant with the applicable provisions set forth in §§ 57.106, 57.107, 57.108, and 57.110: *Provided however*, That for purposes of the title assurance in § 57.107(a) the period shall be not less than 20 years or the term of the guaranteed loan, whichever is longer or in the case of interim fa-

cilities, the term of the guaranteed loan, and

(2) Any such application may be approved by the Secretary only if he determines:

(i) That the applicant will have sufficient financial resources to enable him to comply with the terms and conditions of the loan;

(ii) That the applicant has the necessary legal authority to finance, construct, and maintain the proposed project, to apply for and receive the loan, and to pledge or mortgage any assets or revenues to be given as security for such loan;

(iii) That the loan will be made only with respect to the initial permanent financing of the project;

(iv) That the loan will be secured by a lien against the facilities to be constructed or against other security satisfactory to the Secretary specified in § 57.2210;

(v) That the rate of interest on the loan does not exceed such percent per annum as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States; and

(vi) Such additional determinations as the Secretary finds necessary with respect to particular applications in order to protect the financial interests of the United States.

(b) *Loan guarantees*. In addition to the requirements of paragraph (a) of this section, any application for a loan guarantee may be approved by the Secretary only if he determines that the loan with respect to which such guarantee is sought would not be available to the applicant on reasonable terms and conditions without such guarantee. To assist the Secretary in making such determination, each applicant for a loan guarantee shall submit statements from at least three non-Federal institutions normally engaged in making long-term loans for construction, describing whether, and the terms and conditions under which, each institution would make a loan to the applicant for the project described in the application.

(c) *Interest subsidies*. In addition to the requirements of paragraph (a) of

¹ Applications and instructions are available from the Division of Facilities Conversion and Utilization, Bureau of Health Maintenance Organizations and Resources Development, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

this section, any application for interest subsidies may be approved by the Secretary only if he determines that without such interest subsidy payments the applicant would not, over a substantial portion of the loan term, be able to repay the principal and interest of the loan without jeopardizing the quality of the educational program.

§ 57.1506 Priority.

(a) Priority in approving applications for loan guarantee and/or interest subsidies shall be determined in accordance with the factors specified in section 721(d) of the Act, and the following: (1) The relative need for increased enrollment and the availability of students; (2) the relative effectiveness of the project relative to the cost to the Federal Government; and (3) the relative ability of the applicant to make efficient and productive use of the facility constructed.

(b) In the case of applications to aid in the construction of new schools of medicine, osteopathy, or dentistry, the Secretary shall give special consideration to those applications which contain or are reasonably supported by assurances that, because of the use that will be made by such school of already existing facilities (including Federal medical or dental facilities), the school will be able to accelerate the date on which it will begin its teaching program.

§ 57.1507 Limitations applicable to loan guarantee.

(a) The amount of loan with respect to which a guarantee is made under this subpart shall be determined by the Secretary based upon such considerations as the availability of funds and the applicant's need therefor; *Provided*, That: (1) Subject to paragraph (a)(2) of this section, no loan with respect to which a guarantee is made for any project under this subpart may be in an amount which, when added to the amount of any grant made with respect to such project under part B of title VII of the Act or any other law of the United States, or to the total of such grants, exceeds 90 percent of the eligible cost of construction of such project as determined by the Secretary;

(2) Notwithstanding paragraph (a)(1) of this section, the Secretary may in particular cases guarantee loans in excess of the amount specified in paragraph (a)(1) of this section where he determines that, because of special circumstances, such additional loan guarantee will further the purposes of part B of title VII of the Act. In making such determinations, the Secretary will in each case consider the following factors:

- (i) The need for the project in the area to be served;
- (ii) The availability of financing for the project on reasonable terms and conditions without such additional loan guarantee;
- (iii) Whether the project can be constructed without such additional loan guarantee; and
- (iv) Other relevant factors consistent with the purpose of part B of title VII of the Act and this subpart.

(3) In determining the cost of construction of the project there shall be excluded from such cost all fees, interest, and other charges relating or attributable to the financing of the project except the following:

- (i) Reasonable fees attributable to services rendered by legal counsel in connection with such loan;
- (ii) With the approval of the Secretary, reasonable fees attributable to the services of a financial advisor in assisting the applicant in securing the loan and arranging for repayment thereof; and
- (iii) Interest attributable to the interim financing of construction of the project prior to the initial permanent financing thereof.

(b) No loan guarantee under this subpart shall apply to more than 90 percent of the loss of principal of and interest on such loan incurred by the holder of such loan upon default by the applicant.

§ 57.1508 Amount of interest subsidy payments; limitations.

The length of time for which interest subsidy payments will be made under the agreement, the amount of loan with respect to which such payments will be made, and the level of such payments shall be determined by the Secretary on the basis of the availability

of funds and his determination of the applicant's need therefor taking into consideration his analysis of the present and reasonable projected future financial ability of the applicant to repay the principal and interest of the loan without jeopardizing the quality of its educational program: *Provided however*, That each such interest subsidy payment shall not exceed the amount necessary to reduce by 3 percent per annum the net effective interest rate otherwise payable on the loan or the portion thereof with respect to which such interest subsidy is paid.

§57.1509 Forms of credit and security instruments.

Each loan with respect to which a guarantee is made or interest subsidies are paid under this subpart shall be evidenced by a credit instrument and secured by a security instrument in such forms as may be acceptable to the Secretary.

§57.1510 Security for loans.

Each loan with respect to which a guarantee is made or interest subsidies are paid under this subpart shall be secured in a manner which the Secretary finds reasonably sufficient to insure repayment. The security may be one or a combination of the following:

(a) A first mortgage on the facility and site thereof.

(b) Negotiable stocks or bonds of a quality and value acceptable to the Secretary.

(c) A pledge of unrestricted and unencumbered income from an endowment or other trust fund acceptable to the Secretary.

(d) A pledge of a specified portion of annual general or special revenues of the applicant acceptable to the Secretary.

(e) Such other security as the Secretary may find acceptable in specific instances.

§57.1511 Opinion of legal counsel.

At appropriate stages in the application and approval procedure for a loan guarantee or interest subsidy, the applicant shall furnish to the Secretary a memorandum or opinion of legal counsel with respect to the legality of any proposed note issue, the legal author-

ity of the applicant to issue the note and secure it by the proposed collateral, and the legality of the issue upon delivery. "Legal counsel" means either a law firm or individual lawyer, thoroughly experienced in the long-term financing of construction projects, and whose approving opinions have previously been accepted by lenders or lending institutions. The legal memorandum or opinion to be provided by legal counsel in each case shall be as follows:

(a) A memorandum, submitted with the application for a loan guarantee or interest subsidy, stating that the applicant is or will be lawfully authorized to finance, construct, and maintain the project, and to issue the proposed obligations and to pledge or mortgage the assets and/or revenues offered to secure the loan, citing the basis for such authority; and

(b) A final approving opinion, delivered to the Secretary at the time of delivery of the evidence of indebtedness to the lender, stating that the credit and security instruments executed by the applicant are duly authorized and delivered and that the indebtedness of the applicant is valid, binding, and payable in accordance with the terms on which the loan guarantee was approved by the Secretary.

§57.1512 Length and maturity of loans.

The repayment period for loans with respect to which guarantees are made or interest subsidies paid under this subpart shall be limited to 30 years: *Provided, That*:

(a) The Secretary may, in particular cases where he determines that a repayment period of less than 30 years is more appropriate to an applicant's total financial plan, approve such shorter repayment period;

(b) The Secretary may, in particular cases where he determines that, because of unusual circumstances, the applicant would be financially unable to amortize the loan over a repayment period of 30 years, approve a longer requirement period which shall in no case exceed 40 years; and

§ 57.1513

(c) In no case shall a loan repayment period exceed the useful life of the facility to be constructed with the assistance of the loan.

§ 57.1513 Repayment.

Unless otherwise specifically authorized by the Secretary, each loan with respect to which a guarantee is made or interest subsidies are paid shall be repayable in substantially level total annual installments of principal and interest, sufficient to amortize the loan through the final year of the life of the loan.

§ 57.1514 Loan guarantee and interest subsidy agreements.

For each application for a loan guarantee or interest subsidy, or combination thereof, which is approved by the Secretary under this subpart, an offer to guarantee such loan and/or make interest subsidy payments with respect thereto will be sent to the applicant, setting forth the pertinent terms and conditions for the loan guarantee and/or interest subsidy, and will be conditioned upon the fulfillment of such terms and conditions. The accepted offer will constitute the loan guarantee agreement, the interest subsidy agreement, or the loan guarantee and interest subsidy agreement, as the case may be. Each such agreement shall include the applicable provisions set forth below:

(a) *Loan guarantee.* Each agreement pertaining to a loan guarantee shall include the following provisions:

(1) That the loan guarantee evidenced by the agreement shall be incontestable (i) in the hands of the applicant on whose behalf such loan guarantee is made except for fraud or misrepresentation on the part of such applicant, and (ii) as to any person who makes or contracts to make a loan to such applicant in reliance on such guarantee, except for fraud or misrepresentation on the part of such other person.

(2) That the applicant shall be permitted to prepay up to 15 percent of the original principal amount of such loan in any calendar year without additional charge. The applicant and the lender may further agree that the applicant shall be permitted to prepay in excess of 15 percent of the original

42 CFR Ch. I (10–1–06 Edition)

amount of the loan in any calendar year without additional charge, but no such payment in excess of 15 percent shall be made without the prior written approval of the Secretary.

(3) That if the applicant shall default in making periodic payment, when due, of the principal and interest on the loan guaranteed under the agreement, the holder of the loan shall promptly give the Secretary written notification of such default. The Secretary shall, immediately upon receipt of such notice, provide the holder with written acknowledgement of such receipt.

(4) That if such default in making periodic payment when due of the principal and interest on the guaranteed loan is not cured within 90 days after receipt by the Secretary of notice of such default, the holder of the loan shall have the right to make demand upon the Secretary, in such form and manner as the Secretary may prescribe, for payment of 90 percent of the amount of the overdue payments of principal and accrued interest, together with such reasonable late charges as are made in accordance with the terms of the credit instrument or security instrument evidencing or securing such loan. The Secretary shall pay such amount from funds available to him for these purposes.

(5) That in the event of exercise by the holder of the loan of any right to accelerate payment of such loan as a result of the applicant's default in making periodic payment when due of the principal and interest on the guaranteed loan, the Secretary shall, upon demand by the holder not less than 90 days after receipt by the Secretary of notification of such default, pay to such holder 90 percent of the total amount of principal and of interest on the loan remaining unpaid after the holder has exercised his right to foreclose upon and dispose of the security and has applied the proceeds thereby received to reduce the outstanding balance of the loan, in accordance with applicable law and the terms of the security instrument.

(6) That the Secretary shall not guarantee any funds which are disbursed by a lender following notification by the Secretary to such lender that the Assurance executed by the Applicant

under section 799A of the Act is no longer satisfactory.

(b) *Interest subsidy.* Each agreement pertaining to the payment of interest subsidies with respect to a loan shall include the following provisions:

(1) That the holder of the loan shall have a contractual right to receive from the United States interest subsidy payments in amounts sufficient to reduce by up to 3 percent per annum the net effective interest rate determined by the Secretary to be otherwise payable on such loan.

(2) That payments of interest subsidies pursuant to paragraph (b)(1) of this section will be made by the Secretary, in accordance with the terms of the loan with respect to which the interest subsidies are paid, directly to the holder of such loan, or to a trustee or agent designated in writing to the Secretary by such holder, until such time as the Secretary is notified in writing by the holder that such loan has been transferred. Pursuant to such written notification of transfer, the Secretary will make such interest payments directly to the new holder (transferee) of the loan: *Provided, however,* That it shall be the responsibility of the holder to remit any payments of interest subsidy to the new holder which the Secretary may have made to the holder after such transfer and prior to receipt of such written notice, and the Secretary shall not be liable to any party for amounts remitted to the holder prior to receipt of such written notice and acknowledgment in writing by the Secretary of receipt of such notice.

(3) That the holder of the loan will promptly notify the Secretary of any default or prepayment by the applicant with respect to the loan.

(4) In the event of any exercise by the holder of the loan of the right to accelerate payment of such loan, whether as a result of default on the part of the applicant or otherwise, the Secretary's obligations with respect to the payment of interest subsidies shall cease.

(5) Where, during the life of the loan with respect to which interest subsidies are to be paid, the applicant ceases to use the facility for the purposes for which constructed, the Secretary's obligation with respect to the

payment of interest subsidies shall cease: *Provided, however,* That where the applicant is continuing to use the facility for purposes eligible for support under part B of title VII of the act, the Secretary may make a determination, based upon the health manpower needs of the community served by the facility as well as other relevant factors, to continue to make interest subsidy payments in accord with the agreement.

(6) Where during the life of the loan with respect to which interest subsidies are to be paid, it is determined, after an opportunity for a hearing pursuant to 45 CFR part 83, that the Assurance executed by the applicant under section 704 (or its predecessor, section 799A) of the Act, is no longer satisfactory, the Secretary's obligation with respect to the payment of interest subsidies shall cease: *Provided, however,* That the Secretary shall resume making interest subsidy payments if he determines that a subsequent Assurance submitted by the applicant is satisfactory.

(7) Where during the life of the loan with respect to which interest subsidies are to be paid, it is determined by the Secretary, after an opportunity for a hearing pursuant to 45 CFR parts 80 and 81, that the applicant has ceased to comply with the Assurance it has executed under 45 CFR 80.4(d) concerning nondiscrimination on the basis of race, color or national origin, the Secretary's obligation with respect to the payment of interest subsidies shall cease: *Provided, however,* That the Secretary shall resume making interest subsidy payments if he subsequently determines that the applicant has come into compliance with the requirements of title VI of the Civil Rights Act of 1964 and implementing regulations.

(8) Where during the life of the loan with respect to which interest subsidies are to be paid, it is determined by the Secretary after an opportunity for a hearing pursuant to title IX of the Education Amendments of 1972, that the applicant has ceased to comply with such title, and its implementing regulations, the Secretary's obligation with respect to the payment

§ 57.1515

of interest subsidies shall cease: *Provided, however,* That the Secretary shall resume making interest subsidy payments if he subsequently determines that the applicant has come into compliance with the requirements of title IX of the Education Amendments of 1972 and implementing regulations.

(c) *General.* In addition to the applicable requirements of paragraphs (a) and (b) of this section, each agreement, whether pertaining to a loan guarantee or interest subsidy or both, shall contain such other provisions as the Secretary finds necessary in order to protect the financial interests of the United States.

[38 FR 31836, Nov. 19, 1973, as amended at 49 FR 38113, Sept. 27, 1984]

§ 57.1515 Loan closing.

Closing of any loan with respect to which a guarantee is made or interest subsidies are paid under this subpart shall be accomplished at such time as may be agreed upon by the parties to such loan and found acceptable to the Secretary.

§ 57.1516 Right of recovery-subordination.

(a) The United States shall be entitled to recover from the applicant for a loan guarantee under this subpart the amount of any payment made pursuant to such guarantee, unless the Secretary waives such right of recovery as provided in § 57.1517.

(b) Upon making of any payments pursuant to a loan guarantee under this subpart, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

§ 57.1517 Waiver of right of recovery.

In determining whether there is good cause for waiver of any right of recovery which he may have against any applicant by reason of any payments made pursuant to a loan guarantee under this subpart, the Secretary shall take into consideration the extent to which:

(a) The facility with respect to which the loan guarantee was made will continue to be devoted by the applicant or other owner to the teaching of health professions personnel, or to other pur-

42 CFR Ch. I (10–1–06 Edition)

poses in the sciences related to health for which funds are available under part B of title VII of the act and these regulations;

(b) A hospital or outpatient facility will be used as provided for under title VI of the act;

(c) There are reasonable assurances that for the remainder of the repayment period of the loan other facilities not previously utilized for the purpose for which the facility was constructed will be so utilized and are substantially equivalent in nature and extent for such purposes; and

(d) Such recovery would seriously curtail the training of qualified health professions personnel in the area served by the facility.

§ 57.1518 Modification of loans.

No official of the Department of Health and Human Services will approve any proposal to modify the terms of a loan guaranteed under title VII of the Public Health Service Act (42 U.S.C. 293 *et seq.*) and this subpart which would permit the use of the guaranteed loan (or the guarantee) as collateral for an issue of tax-exempt securities.

(Secs. 215 and 726, Public Health Service Act, 58 Stat. 690 and 85 Stat. 432, 42 U.S.C. 216 and 293i, as amended)

[48 FR 42984, Sept. 21, 1983]

Subparts Q–T [Reserved]

Subpart U—Armed Forces Health Professions Scholarship Program

AUTHORITY: Sec. 2(a), Pub. L. 92–426, 86 Stat. 719 (10 U.S.C. 2127(d)).

SOURCE: 38 FR 20447, Aug. 1, 1973, unless otherwise noted.

§ 57.2001 Applicability.

In the event the Secretary of Defense decides to enter into one or more contracts under 10 U.S.C. 2127(d), the regulations in this subpart outline considerations the Secretary of Defense will take into account in determining whether an accredited civilian educational institution has increased its total enrollment for the sole purpose of accepting members of the Armed

Public Health Service, HHS

§ 57.2201

Forces health professions scholarship program.

§ 57.2002 Definitions.

As used in this subpart:

(a) *Institution* means a college, university, or other institution or a department, division, or other administrative unit within a college, university, or other institution, which provides primarily or exclusively a course of study in medicine, dentistry, or other health profession, as determined under regulations prescribed by the Secretary of Defense, leading to a degree in one of said health professions, and which is accredited by an accrediting agency or association recognized by the United States Commissioner of Education.

(b) *Enrollment* in any fiscal year means the number of full-time students enrolled in an institution on October 15 of said year and pursuing a course of study which constitutes a full-time academic workload, as determined by the institution, leading to a degree in medicine, dentistry, or other health profession, as determined under regulations prescribed by the Secretary of Defense: *Provided*, That if the Secretary of Defense finds that a date other than October 15 would more accurately reflect an institution's enrollment in any fiscal year, the Secretary of Defense may use such other date in place of October 15 in making his determination under this subpart.

(c) *Fiscal year* means the Federal fiscal year beginning July 1 and ending on the following June 30.

(d) *Program* means the Armed Forces health professions scholarship program established under section 2(a) of the Uniformed Services Health Professions Revitalization Act of 1972 (86 Stat. 713, Pub. L. 92-426), and codified in chapter 105 of 10 U.S.C.

§ 57.2003 Determinations of increased enrollment solely for the program.

In the event the Secretary of Defense decides to enter into one or more contracts under 10 U.S.C. 2127(d), his determination as to whether an institution has increased its total enrollment in any fiscal year for the sole purpose of accepting members of the program will

take into account the following considerations:

(a) A comparison of the total enrollment in said fiscal year with the total enrollments in immediately preceding fiscal years;

(b) Any increases in enrollment to which the institution has directly or indirectly committed itself in said fiscal year under: (1) Other Federal programs, such as those set forth in title VII and VIII of the Public Health Service Act (42 U.S.C. 292 *et seq.*), the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972 (Pub. L. 92-541, 86 Stat. 1100 (38 U.S.C. 5070 *et seq.*)) and section 225 of the Public Health Service Act (sec. 5, Pub. L. 92-585, 86 Stat. 1293 (42 U.S.C. 234)); (2) programs of State or local governments or other public or private agencies, or (3) any legally binding arrangement: *Provided*, That insofar as a single increase may be applied to satisfy the commitments under two or more programs and/or other arrangements, said increase shall be considered to meet all such commitments;

(c) Any unusual factors, such as: (1) An institution having been newly established or (2) an institution experiencing what is for it an abnormal rate of attrition and/or admission.

Subpart V [Reserved]

Subpart W—Physician Shortage Area Scholarship Grants

AUTHORITY: Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216).

SOURCE: 39 FR 28730, Aug. 9, 1974, unless otherwise noted.

§ 57.2201 Applicability.

The regulations of this subpart are applicable to scholarship grants awarded under section 784 of the Public Health Service Act, which authorizes the Secretary to award scholarship grants to students of medicine and osteopathy who agree to engage in the full-time practice of primary care for a prescribed period of time (a) in a physician shortage area or (b) in such manner as to assure that of the patients receiving medical care in such practice a

substantial portion will consist of migratory agricultural workers or members of their families.

§ 57.2202 Definitions.

As used in this subpart, the following terms shall have the following meanings:

(a) *Act* means the Public Health Service Act, as amended.

(b) *Secretary* means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

(c) *School* means a public or other nonprofit school of medicine or osteopathy which provides a course of study, or a portion thereof, which leads respectively to a degree of Doctor of Medicine or Doctor of Osteopathy and which is accredited as provided in section 721(b)(1)(B) of the Act.

(d) *Scholarship grant* means the amount of money awarded to an individual by the Secretary for an academic year pursuant to section 784(a) of the Act.

(e) *Full-time student* means a student who is enrolled, or accepted for enrollment, in a school and pursuing a course of study which constitutes a full-time academic workload, as determined by the school, leading to a degree specified in paragraph (c) of this section.

(f) *Academic year* means the traditional, approximately 9-month September to June annual session. For the purpose of computing academic year equivalents for students who, during a 12-month period, attend for a longer period than the traditional academic year, the academic year will be considered to be of 9 months' duration.

(g) *National of the United States* means (1) a citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (8 U.S.C. 1101(a)(22)).

(h) *Professional training* means the course of study leading to the degree of doctor of medicine or doctor of osteopathy, plus a period, not to exceed a total of four years, of internship and residency training.

(i) *Low-income background* as applied to any individual means that the indi-

vidual comes from a family with an annual income below low-income levels developed pursuant to § 57.605(c).

(j) *The practice of primary care* means the provision of health services characterized by the delivery of first contact medicine, the assumption of longitudinal responsibility for the patient regardless of the presence or absence of disease, and the integration of the physical, psychological and social aspects of health care to the limits of the capability of the practitioner. For purposes of this section, primary care shall include the fields of general practice, family practice, general internal medicine, general pediatrics, and general obstetrics and gynecology.

(k) *Migratory agricultural worker* means a domestic agricultural migratory worker as defined in § 56.102(d).

(l) *Physician shortage area* means an area designated by the Secretary pursuant to § 57.216(a)(5) as an area having a need for and shortage of physicians.

§ 57.2203 Eligibility.

To be eligible for a scholarship grant under this subpart, the applicant must:

(a) Be a national of the United States or a permanent resident of the Trust Territory of the Pacific Islands or a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands or Guam;

(b) Be a full-time student in a school located in the United States, the Trust Territory of the Pacific Islands, Puerto Rico, the Virgin Islands, the Canal Zone, American Samoa or Guam; and

(c) Agree to engage in the full-time practice of primary care as defined in § 57.2202(j) in accord with conditions specified in § 57.2209.

§ 57.2204 Application.

Each eligible applicant desiring a scholarship grant under this subpart shall submit an application at such time and in such form as the Secretary may prescribe.

§ 57.2205 Priority for selection of scholarship recipients.

(a) When funds determined by the Secretary to be available for scholarship grants under this subpart are insufficient to permit the awarding of scholarships to all individuals applying

therefor, the Secretary shall accord priority to eligible applicants as follows:

(1) First priority for scholarship grants shall be accorded to applicants who (i) are from a low-income background as defined in § 57.2202 (i), (ii) reside in a physician shortage area and (iii) agree to return to such area and engage in the full-time practice of primary care. For purposes of this paragraph, an individual resides in a physician shortage area if he presently is residing in such an area or if he (or his parents) resided in such an area in the year prior to his admission to an institution of higher education.

(2) Second priority shall be accorded to applicants meeting the criteria in paragraphs (a)(1) (ii) and (iii) of this section.

(3) Third priority shall be accorded to applicants meeting the criterion in paragraph (a)(1)(i) of this section.

(4) Fourth priority shall be accorded to other applicants.

(b) Where there are insufficient funds available to make scholarship grants to all members of any single priority grouping enumerated in paragraph (a) of this section, the following criteria will be used to accord priority within each affected priority group:

(1) Within the priority groupings specified in paragraphs (a) (1) and (2) of this section, the Secretary shall rank recipients according to the degree of the severity of shortage of physicians practicing primary care in such area. Scholarship grants shall be awarded within each priority group first to applicants within that grouping from physician shortage areas with the least favorable ratio of such physicians to the population to be served.

(2) Within the priority groupings specified in paragraphs (a) (3) and (4) of this section, the Secretary shall award scholarship grants within each priority group first to applicants who agree to practice primary care in a physician shortage area with a substantial portion of migratory agricultural workers in such area; second, to applicants within that grouping who agree to practice in a physician shortage area; and third, to applicants within that grouping who agree to practice in such place or places, facility or facilities,

and in such manner as the Secretary finds necessary to assure that, of the patients receiving medical care in such practice, a substantial portion will consist of persons who are migratory agricultural workers or members of their families.

§ 57.2206 Grant award.

The Secretary may award scholarship grants to individuals who have been selected to receive scholarship grants in accordance with § 57.2205. Any such award under this subpart shall state the specific conditions under which the award is being made and shall indicate the distribution between funds awarded to cover the costs of tuition and fees payable to the school and funds awarded for the costs of equipment, supplies, books, and living expenses payable to the individual.

§ 57.2207 Amount of scholarship grant.

(a) The amount of the scholarship grant to any student for any academic year shall be the total of (1) the lesser of (i) \$5,000 or (ii) the amount determined by the Secretary to be the cost of tuition and fees; plus (2) an allowance for equipment, supplies, books and living expenses which shall be the lesser of (i) \$3,600 or (ii) the difference between \$5,000 and the amount determined pursuant to paragraph (a)(1) of this section.

(b) The maximum amount of a scholarship grant during a 12-month period to any student enrolled in a school which provides a course of study longer than the traditional 9-month academic year may be proportionately increased.

§ 57.2208 Payment of scholarship grant.

The portion of a scholarship grant awarded for the costs of tuition and fees as indicated on the notice of grant award document will be paid directly to the school upon receipt of an invoice from the school. The portion of the scholarship grant awarded for the costs of equipment, supplies, books, and living expenses will be paid to the individual in equal monthly installments.

§ 57.2209 Conditions of scholarship grant.

(a) Any scholarship grant made to any individual under this subpart shall be awarded upon the condition that such individual will, following completion of his professional training, engage in the full-time practice of primary care for a period of 12 continuous months for each academic year (i.e., 9 months) for which a scholarship grant was made, as follows:

(1) In the case of any individual selected pursuant to § 57.2205(a) (1) or (2), such practice must be in the physician shortage area to which such individual agreed to return: *Provided however*, That if the Secretary determines at the time the individual proposes to engage in the required practice that such area is no longer a physician shortage area and cannot reasonably be expected to become such an area within 2 years from such time, such practice shall, at the option of the individual, be either in any then current physician shortage area, or in such place or places, facility, or facilities, and in such manner as the Secretary finds necessary to assure that, of the patients receiving medical care in such practice, a substantial portion will consist of persons who are migratory agricultural workers or members of their families.

(2) In the case of any individual selected pursuant to § 57.2205(a) (3) or (4), such practice must be in accordance with the agreement described in § 57.2205(b)(2) (i.e., in a physician shortage area with a substantial portion of migratory agricultural workers in such area; a physician shortage area; or in such place or places, facility or facilities, and in such manner as may be necessary to assure that, of the patients receiving medical care in such practice, a substantial portion will consist of persons who are migratory agricultural workers or members of their families; as the case may be).

(b) Subject to the provision of § 57.2211(f) and except as provided in paragraph (c) of this section, any individual to whom the conditions of this section apply must complete the practice required by paragraph (a) of this section within a period beginning on the date of completion by the individual of his professional training, as

determined by the Secretary, and not to exceed the period of practice determined in accordance with such paragraph (a) of this section, plus 6 months.

(c) Where an individual to whom the conditions of this section apply is currently performing an active duty service obligation under section 235 of the Act, the individual must complete the practice required by paragraph (a) of this section within a period beginning on the date of completion by the individual of his service obligation under section 225 of the Act or completion of his internship and residency training (not to exceed four years) if not previously received, whichever comes later, and not to exceed the period of practice determined in accordance with paragraph (a) of this section, plus 6 months.

(d) Where an individual has received scholarship grant support for four academic years, such individual shall be considered to have received scholarship grant support for only three academic years if the Secretary determines (1) that such individual has served his internship or residency in a hospital (i) which is located in a physician shortage area, or (ii) in which a substantial portion of the patients of such hospital consists of persons who are migratory agricultural workers or members of the families of such workers and (2) that while so serving such internship or residency, he has received training or professional experience designed to prepare him to engage in the practice of primary care.

(e) For purposes of paragraph (c)(2) of this section, (1) internships which will be recognized by the Secretary as providing training or professional experience designed to prepare an individual to engage in the practice of primary care are: Rotating internships without a major emphasis, rotating internships with an emphasis on internal medicine, rotating internships with an emphasis on pediatrics, rotating internships with an emphasis on obstetrics and gynecology, straight internships in internal medicine, straight internships in pediatrics and straight internships in obstetrics and gynecology; *Provided*, That such internships are approved or provisionally approved by the Council on Medical Education of the American

Medical Association or the Board of Trustees of the American Osteopathic Association; and

(2) Residencies which will be recognized as providing such training or experience are those in general practice, family practice, general internal medicine, general pediatrics and general obstetrics and gynecology; *Provided*, That such residencies are approved or provisionally approved by the Council on Medical Education of the American Medical Association or the Board of Trustees of the American Osteopathic Association.

(f) No individual who has received a scholarship grant under this subpart may enter into an agreement with the Secretary pursuant to section 741(f) of the Act until either (1) such individual has completed the practice required by paragraph (a) of this section, or (2) the Secretary has determined that the United States is entitled to recover from such individual an amount determined in accordance with §57.2210. In no case, however, shall a scholarship grant under this subpart be considered an educational loan for purposes of section 741(f) of the Act.

[39 FR 28730, Aug. 9, 1974, as amended at 41 FR 26685, June 29, 1976]

§57.2210 Failure to comply.

(a) Subject to the provision of §57.2211, if any individual fails to complete the course of study or fails, within the time period set forth in §57.2209(b), to meet the applicable conditions of practice imposed by receipt of a scholarship grant for the full number of months to which such condition is applicable, the United States shall be entitled to recover from such individual an amount determined in accordance with section 784(c)(3) of the Act; *Provided however*, That no interest shall accrue on any amount due the United States during any period for which the Secretary has suspended the obligation to repay pursuant to §57.2211(b).

§57.2211 Waiver or suspension.

(a) Any obligation of any individual under this subpart will be cancelled upon the death of such individual as documented by a certification of death, or such other official proof as is con-

clusive under State law, and submitted to the Secretary.

(b) Subject to the provision of paragraph (f) of this section, where an individual fails to complete the practice required by §57.2209(a) within the period prescribed in §57.2209(b), the Secretary may waive or suspend for such period as determined by the Secretary the obligation of such individual to repay pursuant to §57.2210 where the Secretary determines that compliance by such individual with such obligation (1) is impossible, or (2) would involve extreme hardship to such individual and enforcement of such obligation with respect to such individual would be against equity and good conscience.

(c) For purposes of paragraph (b)(1) of this section, compliance by an individual will be deemed impossible where the Secretary determines, on the basis of such information and documentation as he may require, that the individual is permanently and totally disabled.

(d) For purposes of paragraph (b)(2) of this section, in determining whether compliance by an individual would involve extreme hardship to such individual and would be against equity and good conscience, the Secretary will take into consideration the following:

(1) The individual's present financial resources and obligations;

(2) The individual's estimated future financial resources and obligations;

(3) The reasons for the individual's failure to complete such practice within the prescribed period, such as problems of a personal nature; and

(4) The extent to which the individual is practicing his profession in a manner consistent with the purposes of section 784 of the Act.

(e) Where the Secretary determines that compliance by an individual with his obligation to engage in the practice of primary care in a specified shortage area pursuant to §57.2209(a) is impossible or would involve extreme hardship to such individual and enforcement of such obligation with respect to such individual would be against equity and good conscience, the Secretary may waive such obligation and permit the individual at his option to practice either in any then current physician shortage area, or in such place or places, facility or facilities,

§ 57.3201

and in such manner as the Secretary finds necessary to assure that, of the patients receiving medical care in such practice, a substantial portion will consist of persons who are migratory agricultural workers or members of their families. The Secretary will take into consideration in determining whether to grant a waiver under this paragraph the extent to which the individual has problems of a personal nature, e.g., physical or mental disability, terminal illness in the family, or need for financial support that cannot be supplied by the required service, which intrude upon the individual's ability to perform the required service in the specified shortage area.

(f) The Secretary may extend the period (prescribed in § 57.2209(b)) within which an individual must complete the practice required pursuant to § 57.2209(a) for a period not to exceed one year where the Secretary finds that (1) such individual is unable to complete such practice within such period because of a temporary physical or mental disability, or (2) completion by such individual of such practice within such period would involve extreme hardship to such individual and that failure to so extend such period would be against equity and good conscience.

Subparts AA–FF [Reserved]

Subpart GG—Payment for Tuition and Other Educational Costs

AUTHORITY: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 711, Public Health Service Act, 90 Stat. 2253; section 710, PHS Act, as redesignated by Pub. L. 97–35, 95 Stat. 915 (42 U.S.C. 292k).

§ 57.3201 To which programs do these regulations apply?

The regulations in this subpart establish the criteria to be used in determining allowable increases in tuition and other educational costs for which the Secretary is responsible for payment under the following sections of the Public Health Service Act: The National Health Service Corps Scholarship Program (sec. 338A) (42 U.S.C. 2541) and the Indian Health Scholarship Program (awarded pursuant to sec. 338A–

42 CFR Ch. I (10–1–06 Edition)

339G of the PHS Act) (25 U.S.C. 1613a). These programs are referred to herein as the “scholarship programs.” The regulations apply to increases in tuition and other educational costs occurring after the school year beginning immediately before October 1, 1981.

[57 FR 45745, Oct. 5, 1992]

§ 57.3202 How will allowable increases be determined?

(a) The Secretary is responsible for increases in tuition and other educational costs only if the same increase is charged to all students in the same category (for example, the same class year or place of residence) and without regard to whether the student is receiving support under the scholarship programs. A student participating in the scholarship programs may not be denied eligibility because of this participation for any discounts or rebates in tuition or other educational costs given to all other students in the same category at the institution.

(b) Institutions whose enrollment contains 25 percent or more students participating in the scholarship programs, and whose percentage increase in tuition and other educational costs in any school year exceeds the previous calendar year's average inflation rate as indicated by the *Consumer Price Index for All Urban Areas*, may be requested to provide the Secretary with detailed cost breakdowns justifying the increase.

(c) In the case of a school which is requested to provide the Secretary with cost increase justification under paragraph (b) of this section, the Secretary will be responsible for increases in tuition and other educational costs charged to students participating in the scholarship programs over the amount charged for the school year immediately preceding the increase only to the extent that they are: (1) Attributable to uncontrollable costs, such as fuel costs, mandated cost-of-living increases in wages, salaries and fringe benefits, (2) attributable to costs of maintaining and improving the quality of the health professions education provided by the institution, such as hiring additional faculty to improve the faculty-student ratio, costs incurred in

Public Health Service, HHS

§ 59.1

off-site training of students, and necessary improvements in teaching equipment. Increases in patient care and research costs are allowable as part of an increase in tuition and other educational costs only to the extent that they can be documented as clearly necessary to maintain and improve the quality of the education being supported; or (3) attributable to loss of revenue from other sources which was used solely for the maintenance and improvement of the educational system.

These three categories of valid escalators of tuition and other educational costs are exclusive. However, the examples *within* each category are merely illustrative and not meant to be inclusive.

(d) If the Secretary, after reviewing all available data, information, and justifications submitted by an institution, determines that an increase in tuition and other educational costs is not allowable under the criteria described in paragraph (a) or (c) of this section, the Secretary will provide the affected institution a detailed written explanation of the basis of that determination. The Secretary will be responsible for that portion of tuition and other educational costs the Secretary determines to be allowable.

[45 FR 71568, Oct. 29, 1980]

Subparts HH-PP [Reserved]

PART 58—GRANTS FOR TRAINING OF PUBLIC HEALTH AND ALLIED HEALTH PERSONNEL

Subparts A-F [Reserved]

PART 59—GRANTS FOR FAMILY PLANNING SERVICES

Subpart A—Project Grants for Family Planning Services

Sec.

- 59.1 To what programs do these regulations apply?
- 59.2 Definitions.
- 59.3 Who is eligible to apply for a family planning services grant?
- 59.4 How does one apply for a family planning services grant?

- 59.5 What requirements must be met by a family planning project?
- 59.6 What procedures apply to assure the suitability of informational and educational material?
- 59.7 What criteria will the Department of Health and Human Services use to decide which family planning services projects to fund and in what amount?
- 59.8 How is a grant awarded?
- 59.9 For what purposes may grant funds be used?
- 59.10 What other HHS regulations apply to grants under this subpart?
- 59.11 Confidentiality.
- 59.12 Additional conditions.

Subpart B [Reserved]

Subpart C—Grants for Family Planning Service Training

- 59.201 Applicability.
- 59.202 Definitions.
- 59.203 Eligibility.
- 59.204 Application for a grant.
- 59.205 Project requirements.
- 59.206 Evaluation and grant award.
- 59.207 Payments.
- 59.208 Use of project funds.
- 59.209 Civil rights.
- 59.210 Inventions or discoveries.
- 59.211 Publications and copyright.
- 59.212 Grantee accountability.
- 59.213 [Reserved]
- 59.214 Additional conditions.
- 59.215 Applicability of 45 CFR part 74.

Subpart A—Project Grants for Family Planning Services

AUTHORITY: 42 U.S.C. 300a-4.

SOURCE: 65 FR 41278, July 3, 2000, unless otherwise noted.

§ 59.1 To what programs do these regulations apply?

The regulations of this subpart are applicable to the award of grants under section 1001 of the Public Health Service Act (42 U.S.C. 300) to assist in the establishment and operation of voluntary family planning projects. These projects shall consist of the educational, comprehensive medical, and social services necessary to aid individuals to determine freely the number and spacing of their children.

[65 FR 41278, July 3, 2000; 65 FR 49057, Aug. 10, 2000]